Calendar No. 756

97TH CONGRESS 2d Session	SENATE	REPORT No. 97-524

ELECTRIC UTILITY NUCLEAR ACCIDENT COST ALLOCATION ACT

JOINT REPORT

together with

SUPPLEMENTAL AND MINORITY VIEWS

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

AND THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

TO ACCOMPANY

S. 1606

AUGUST 13 (legislative day, JULY 12), 1982.—Ordered to be printed

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REPORT
No. 97-524

ELECTRIC UTILITY NUCLEAR ACCIDENT COST ALLOCATION ACT

AUGUST 13 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, and on behalf of Mr. Stafford from the Committee on Environment and Public Works, submitted the following

JOINT REPORT

together with

SUPPLEMENTAL AND MINORITY VIEWS

[To accompany S. 1606]

The Committee on Energy and Natural Resources and the Committee on Environment and Public Works, to which was jointly referred the bill, S. 1606, to establish a supplemental insurance fund administered by the Secretary of Energy to pay the costs of necessary remedial action following damage to nuclear powerplants, including certain remedial action at the Three Mile Island facilities in Pennsylvania, to require participation in such fund by the licensees of nuclear powerplants as a condition for the licensing and continued operation of such plants, and for other purposes, having considered the same, reports thereon as follows:

The Committee on Energy and Natural Resources reports favorably thereon in the form of an amendment in the nature of a substitute and an amendment to the title, and recommends that the bill, as amended, do pass.

The Committee on Environment and Public Works reports the bill, as amended by the Committee on Energy and Natural Resources, without recommendation.

The title, as amended, reads: "An Act to provide a national program for the financial participation by electric utilities owning, op-

erating, or constructing a nuclear electric generating unit in the cost of decontamination of Three Mile Island Nuclear Generating Station Unit No. 2 in Pennsylvania".

PART A—COMMITTEE ON ENERGY AND NATURAL RESOURCES

TEXT OF S. 1606 AS ORDERED REPORTED

1. Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Electric Utility Nuclear Accident Cost Allocation Act".

FINDINGS

SEC. 2. The Congress finds and declares that—

(a) on March 28, 1979, an accident occurred at Three Mile Island Nuclear Generating Station Unit No. 2 (TMI-2), a commercial, nuclear-fueled electric generating plant located in Pennsylvania;

(b) TMI-2 subsequently was brought to a safe shutdown condition, but facilities and equipment at the plant site have been radioactively contaminated;

(c) the location, geology, and hydrology of Three Mile Island are such that removing the damaged fuel and radioactive waste to suitable storage sites is the only reliable means of eliminating the risk of environmental contamination in nearby communities and elsewhere; and the longer cleanup is delayed, the greater is the potential of TMI-2 becoming a health and safety hazard;

(d) nuclear energy is one of the major energy sources available for electric energy production in the United States during the balance of the twentieth century and continued development of nuclear power is dependent upon maintaining a high level of safety in the operation of nuclear plants and upon public recognition that these facilities do not constitute a significant threat to human health or safety;

(e) the cost of TMI-2 cleanup is beyond the ability of the TMI-2 owners alone to fund, and a shared approach to funding the TMI-2 cleanup is fundamental to a solution of the problems faced by the electric utility industry as a result of the accident;

(f) failure to complete the timely cleanup of TMI-2 has adversely affected and will continue to adversely affect investor confidence in the securities of electric utilities, particularly those owning or operating nuclear generating units; thereby increasing the cost of electric energy and the rates which consumers must pay for electric energy; and will continue to adversely affect public confidence in the safety and reliability of nuclear energy as a useful component of our Nation's energy resources;

(g) continued public confidence in the adequacy and reliability of the Nation's supply of electric energy to meet the requirements of interstate commerce and the national defense and to otherwise provide for the general welfare depends, in part, on a demonstration that public and private entities can effectively cooperate in response to environmental and financial effects of nuclear accidents; and

(h) in order to implement the orders, entered January 8, 1982, of the Pennsylvania Public Utility Commission authorizing the collection from the customers of Metropolitan Edison Company and Pennsylvania Electric Company of certain revenues to be devoted to the sole purpose of TMI-2 cleanup, such companies have entered into a trust indenture (the "Pennsylvania Trust") which makes provision for the receipt and disbursement, solely for TMI-2 cleanup purposes, by the Pennsylvania Trustee of the funds so collected by Metropolitan Edison Company and Pennsylvania Electric Company and also of funds provided by other entities electing to provide such funds to the Pennsylvania Trustee; and

(i) Federal legislative action is necessary to assure the financial participation of those electric utilities primarily benefiting from nuclear generation in the

TMI-2 cleanup process and the equitable apportionment of a portion of the uninsured cost of TMI-2 cleanup among them.

PURPOSE

SEC. 3. The purpose of this Act is to establish a broad-based national program to equitably distribute a portion of the uninsured cost of the cleanup of TMI-2 among those electric utilities primarily benefiting from nuclear generation; and, thereby, to protect the public health and safety, and provide for the common defense and the interests of interstate and foreign commerce, which are heavily dependent upon a reliable supply of electricity.

DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "nuclear utility" means every investor-owned electric company, State-owned, federally owned and municipally owned electric system, and rural electric cooperative corporation or association which operates or owns, in whole or in part, a nuclear electric generating unit pursuant to an operating license issued under section 103 of the Atomic Energy Act of 1954, as amended;

(2) "TMI-2" means the nuclear generating unit at Three Mile Island Nuclear Generating Station in Middletown, Pennsylvania, damaged by the nuclear accident which occurred on March 28, 1979;

(3) "TMI-2 cleanup" means the decontamination, removal, and disposition of nuclear waste materials and radioactively contaminated equipment and facilities at TMI-2;

(4) "Trust Fund" means the "TMI-2 Cleanup Trust Fund" established by section 6 and administered by the Secretary of the Treasury and the Secretary of Energy, as Trustees, to collect and disburse the TMI-2 cleanup fees imposed upon nuclear utilities by section 5 in order to defray a portion of the total TMI-2 cleanup costs;

(5) "Pennsylvania Trust" means the trust established by Metropolitan Edison Company and Pennsylvania Electric Company to implement the orders of the Pennsylvania Public Utility Commission, entered January 8, 1982; and

(6) "Pennsylvania Trustee" means the trustee of the Pennsylvania Trust.

TMI-2 CLEANUP FEE

SEC. 5. (a) PAYMENT OF FEE.—During calendar years 1982 through 1987, every nuclear utility shall pay to the Secretary of the Treasury an annual fee of $0.28363 for each kilowatt of its proprietary share of the electric power level authorized by the construction permit or operating license, as applicable, for each nuclear electric generating facility under construction or licensed to operate on or after the effective date of this Act. The fee shall not apply to a nuclear electric generating facility when the construction permit or the operating license for such facility is enjoined, surrendered, or revoked; nor shall the fee apply for the duration of the period of shutdown, if operation of the facility is terminated at any time or the facility is forced out of service, and the licensee certifies to the Secretary of Energy within ninety days thereafter that the facility is scheduled to remain shut down until December 31, 1987. The annual fee imposed upon any single nuclear utility shall not exceed $1,600,000.

(b) COLLECTION.—The fee shall be paid to the Treasury of the United States by nuclear utilities, their successors or assignees in ownership, upon receipt of appropriate invoices from the Secretary of the Treasury, unless the nuclear utility elects to make such payments into the Pennsylvania Trust described in section 7. Delinquent payments to the Trust Fund or the Pennsylvania Trust shall bear interest at a rate for each calendar quarter which shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin for the fourth, third, and second months preceding the first month of the applicable calendar quarter.

(c) CERTIFICATION OF NUCLEAR GENERATING CAPABILITY.—Upon reasonable written notice from Secretary of Energy—

(1) every nuclear utility shall certify to the Secretary of Energy the electric power level authorized by the construction permit or operating license, as applicable, for each nuclear generating facility under construction or licensed to operate when such notice is received; and

(2) after such review of the accuracy of the foregoing information by the Department of Energy as the Secretary of Energy shall deem appropriate, the in-

formation shall be furnished to the Secretary of the Treasury for purposes of collection under section 5(b).

TMI-2 CLEANUP TRUST FUND

SEC. 6. (a) There is hereby established on the books of the Treasury of the United States a trust fund to be known as the TMI-2 Cleanup Trust Fund. The Trust Fund will remain available without fiscal year limitation and shall consist of such amounts as shall be deposited in it according to section 5(b).

(b) The trustees of the Trust Fund shall be the Secretary of the Treasury and the Secretary of Energy. The Secretary of the Treasury shall be the managing trustee and shall hold, operate, and administer the Trust Fund.

(c) The Secretary of Energy shall review the detailed programs which set forth the direct and indirect processes and activities to be undertaken to accomplish TMI-2 cleanup, and all revisions of such programs. If, and to the extent that, the Secretary of Energy determines that such detailed programs are safe, as expeditious as practicable, cost effective, and consistent with the purposes of this Act, he shall so certify to the trustees of the Trust Fund; and the trustees shall make disbursements from the Trust Fund to defray the costs of the work, services, materials, and equipment theretofore, and thereafter to be, performed, rendered, or acquired in connection with TMI-2 cleanup.

(d)(1) The Secretary of the Treasury shall hold the Trust Fund and, after consultation with the Secretary of Energy, shall report to the Congress not later than the last day of March 1983 and of each year thereafter until March 31, 1988, on the financial condition and results of the operations of the Trust Fund during the preceding fiscal year, including an account of the disbursements from the Trust Fund, and on the Trust Fund's expected financial condition and operations during the fiscal year in which the report is made.

(2) It is the duty of the Secretary of the Treasury to invest such portions of the Trust Fund as are not, in his judgment, required to meet current disbursements. Such investments shall be made in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at prevailing market rates. The income of such investments shall be credited to and form a part of the Trust Fund.

PENNSYLVANIA TRUST

SEC. 7. (a) The Secretary of Energy shall, within sixty days of enactment, review the terms and conditions of the indenture creating the Pennsylvania Trust for the purpose of determining whether the Pennsylvania Trust may serve as an alternative means for receiving and disbursing funds for the cleanup of TMI-2. If the Secretary of Energy finds that—

(1) the terms and conditions of the Pennsylvania Trust indenture are consistent with the criteria set forth in section 6(c) and appropriate to permit the Pennsylvania Trust indenture to serve as an alternate means of collecting and disbursing funds for the cleanup of TMI-2;

(2) the Pennsylvania Trust indenture makes provision, satisfactory to the Secretary of Energy, for (A) maintenance by the Pennsylvania Trustee of accurate and complete books and records showing, for each entity making payments to the Pennsylvania Trust, the receipts and disbursements by the Pennsylvania Trust; (B) furnishing by the Pennsylvania Trustee to the Secretary of Energy of periodic reports; and (C) periodic independent audit of the statements of the Pennsylvania Trustee relating to the Pennsylvania Trust and the furnishing of reports of the results of such audits to the Secretary of Energy; and

(3) the Pennsylvania Trustee is an independent banking or financial institution, experienced in trust management;

Then the Secretary of Energy shall so certify to the Secretary of the Treasury and shall publish in the Federal Register a copy of such certification.

(b) If a nuclear utility elects to make payments to the Pennsylvania Trust and shall furnish to the Secretary of Energy proof, in such form as the Secretary of Energy shall prescribe, that it has made such payments, such nuclear utility shall receive a credit against its obligations for payment of the fee specified in section 5 in an amount equal to its payments in the Pennsylvania Trust.

(c) The Secretary of the Treasury, after consultation with the Secretary of Energy and review of the periodic reports by the Pennsylvania Trustee made pursuant to section 7(a)(2), shall report to Congress not later than the last day of March 1983 and of each year thereafter until march 31, 1988, on the financial condition and those operations of the Pennsylvania Trust carried out pursuant to the provisions of

this Act during the preceding fiscal year, including an account of the disbursements from the Pennsylvania Trust, and on the Pennsylvania Trust's expected financial condition and operations during the fiscal year in which the report is made.

ENFORCEMENT

SEC. 8. The United States District Courts shall have jurisdiction to enforce the provisions of this Act without regard to jurisdictional amount. Such actions may be brought by the United States Department of Justice, under the direction of the Attorney General, upon joint request by the Secretary of the Treasury and the Secretary of Energy, or upon the initiative of the Department of Justice.

EFFECT ON UTILITY RATES

SEC. 9. Nothing in this Act shall be construed to prescribe the ratemaking treatment, by state regulatory bodies and the Federal Energy Regulatory Commission, of payments made pursuant to section 5(a).

EFFECTIVE DATE

SEC. 10. This Act shall take effect upon the date of enactment of this Act.

2. Amend the title so as to read: "An Act to provide a national program for the financial participation by electric utilities owning, operating, or constructing a nuclear electric generating unit in the cost of decontamination of Three Mile Island Nuclear Generating Station Unit No. 2 in Pennsylvania".

I. PURPOSE OF THE MEASURE

The purpose of this measure, as ordered reported by the Committee on Energy and Natural Resources, is to establish a limited-term, national program to equitably distribute a portion of the uninsured cost of the cleanup of Three Mile Island Unit 2 (TMI-2) among those electric utilities that benefit from nuclear generation, specifically, those utilities with an ownership interest in one or more operating nuclear electric generating plants. Such financial participation is essential to the timely completion of the TMI-2 cleanup operation. Thus, the revenues derived from this measure, which would be used only for the TMI-2 cleanup, would contribute to the reduction and ultimate elimination of the public health and safety risk created by the current radioactive contamination of the facilities and equipment at the TMI-2 plant site.

II. SUMMARY OF MAJOR PROVISIONS

The major provisions of S. 1606, as ordered reported by the Committee on Energy and Natural Resources are as follows:

(1) Every nuclear utility (defined as a utility owning, in whole or in part, or operating a nuclear powerplant pursuant to an operating license issued by the Nuclear Regulatory Commission) shall pay an annual fee to the Treasury of the United States during calendar years 1982 through 1987. The annual fee will be approximately 28 cents per kilowatt of nuclear generating owned by each nuclear utility. Generating capacity is determined on the basis of each utility's ownership interest in any nuclear powerplant for which either an operating license or a construction permit has been issued. No utility shall pay an annual fee in excess of $1,600,000.

(2) A TMI-2 Cleanup Trust Fund shall be established as an account within the Treasury of the United States and shall serve as

the repository for the fees paid by nuclear utilities. The trustees shall be the Secretary of the Treasury and the Secretary of Energy. The Secretary of the Treasury shall manage and administer the Trust Fund.

The programs and activities to be undertaken to accomplish the TMI-2 cleanup shall be reviewed by the Secretary of Energy. Upon his certification that such programs are safe, expeditious, and efficient, the trustees shall make disbursements from the Trust Fund to defray the cleanup costs.

The Secretary of the Treasury shall annually report to the Congress on the financial condition and results of the operations of the Trust Fund established by S. 1606.

(3) Within 60 days of enactment, the Secretary of Energy shall review the terms and conditions of a second trust fund, entitled the "Pennsylvania Trust," which is a currently existing trust indenture entered into by Metropolitan Edison Company and Pennsylvania Electric Company, the two Pennsylvania utilities that together own 75 percent of TMI-2. The primary purpose of the Pennsylvania Trust is to receive certain funds collected from the customers of the two utilities, and to apply those funds solely to the TMI-2 cleanup. If the Secretary of Energy makes certain statutory findings concerning the terms and operation of the Pennsylvania Trust, any nuclear utility may elect to make its payments to the Pennsylvania Trust instead of the TMI-2 Cleanup Trust Fund established by S. 1606.

In addition, the Secretary of the Treasury shall annualiy report to the Congress on the financial condition of the Pennsyvania Trust and its operations pursuant to the provisions of S. 1606.

III. Background

Financial Consequences of the Accident

On March 28, 1979, a major accident occurred at Three Mile Island Generating Unit No. 2 (TMI-2), a commercial nuclear electric generating unit located in Middletown, Pennsylvania. The unit was brought to a safe shut-down condition and has been maintained in a stable condition since that date. However, as a result of the accident, the unit was radioactively contaminated, presenting a potential health and safety hazard not only to nearby residents, but also to those in other areas and States. The unit will remain a potential threat to public health and safety until the cleanup is completed.

TMI-2 is owned by three companies: Metropolitan Edison Company (Met-Ed) owns 50 percent; Pennsylvania Electric Company (Penelec) owns 25 percent; and Jersey Central Power and Light Company (JCP&L) owns the remaining 25 percent. Met-Ed and Penelec operate in Pennsylvania, and JCP&L operates in New Jersey. The three companies in turn are owned by a holding company, General Public Utilities Corporation (GPU). Thus, GPU is generally designated as the owner of TMI-2.

Promptly after the accident, the State regulatory agencies reduced GPU's base rates by amounts equivalent to the operating and capital costs associated with TMI-2. About a year later, the operating and capital costs associated with TMI-1 were also eliminat-

ed from GPU's base rates by the State regulatory agencies. Nevertheless, GPU has continued to meet the payroll for workers at TMI-1 and TMI-2, to pay for materials and supplies, and to pay interest on the bond and debenture capital invested in those plants. Only a limited portion of those costs has been borne by insurance; thus, GPU has obtained the balance of the funds by terminating common stock dividend payments and reducing its retained earnings.

Shortly after the accident, GPU began to experience a severe cash drain due to the unreimbursed purchase of replacement power from other utilities. For more than a year after the accident, GPU was not permitted by the Pennsylvania Public Utilities Commission (PaPUC) and the New Jersey Board of Public Utilities (NJBPU) to fully recover its replacement power costs. Subsequent actions by the PaPUC and NJBPU corrected this cost recovery shortfall.

To maintain solvency, GPU has eliminated its common stock dividend and cut its operating, maintenance, and construction expenditures to minimum levels. Its current earnings are so low that it cannot meet the various tests required to issue new senior securities, and it has not had access to external capital markets for over 2½ years. GPU's only source of cash beyond its operating revenues is a revolving credit agreement with about 45 banks under which it can borrow strictly limited amounts. Thus, TMI costs consume essentially all of the cash resulting from GPU's operation of its non-TMI properties.

The termination of the common stock dividend has cost GPU's shareholders $230 million in cash dividends that they otherwise would have received. GPU common stock now trades in the $5 to $6 per share range, compared to about $17 per share before the accident. This amounts to a loss of over $700 million in market value.

On a systemwide basis, GPU's customers experienced rate increases of about 50 percent from the date of the accident through September 1981. During that period, the loss of TMI-2 capacity also has cost GPU's customers a net estimated cost of $240 million. This results from an increase in charges for replacement power of $610 million, reduced by accident-related exclusions from rates of $370 million.

The total eventual cost of the TMI-2 cleanup operation (including estimated operating and maintenance expenses of $105 million) is estimated by GPU to be $1,034,000,000. About $274 million had been spent on cleanup activities as of the end of 1981. The estimated cost of the remaining cleanup is therefore about $760 million.

Despite the fact that proven technology is available to accomplish the cleanup, the task is unprecedented in its scope and magnitude. Thousands of skilled workers, who will have to operate under severely restricted conditions, will be involved. Steps taken to protect each worker's health and safety will vastly reduce their normal productivity, thus increasing labor costs. Additionally, construction or fabrication of several new cleanup facilities and items of equipment will be required.

The cleanup effort has been organized into three general phases, each with numerous tasks. The first phase, with an estimated cost of $551 million, consists of completing the auxiliary building

cleanup and initiating the cleanup of the containment building. The second phase will consist of decontamination of the containment building, with an estimated cost of $329 million. The final phase, with an estimated cost of $154 million, will involve removal of the fuel core, removal and disposal of various types of solid radioactive wastes, and cleanup of the coolant system.

Governor Thornburgh's Proposal

By mid-1981, it became apparent that the funds for the TMI-2 cleanup would have to be obtained from multiple sources. The enormous cost of completing the cleanup, combined with the initial and continuing reductions in GPU's earnings resulting from the decisions of the Pennsylvania and New Jersey commissions, made it virtually impossible for GPU to provide all of the necessary funds. Thus, on July 9, 1981, an attempt was made to break what amounted to an institutional impasse over who should pay for the TMI-2 cleanup. The Governor of Pennsylvania, Richard L. Thornburgh, proposed a cost-sharing plan for raising the estimated $760 million cost of the remaining cleanup operations.

Under the Thornburgh plan, 50 percent of the funds would be derived from national resources and 50 percent from regional resources. The particular contributions were as follows: The electric utility industry, $190 million; the Federal Government, $190 million; GPU, $245 million; the State governments of Pennsylvania and New Jersey, $45 million; and unexpended insurance funds, $90 million. The expenditure of these funds would be spread over a 6-year period, the minimum amount of time required to complete the cleanup.

In testimony before the Committee on Energy and Natural Resources in October 1981, Governor Thornburgh articulated the following rationale for proposing each particular source of funds:

> It was clear that investor confidence in the entire electric utility industry had been badly shaken by this crisis, and by our continued failure to deal with it effectively, and that the subsequent cost of borrowing to meet our national energy needs—a "confidence cost," if you will—would soar if the "last resort" of bankruptcy and emergency federal action proved to be our ultimate answer to the funding impasse. * * * Because their consumers and investors have such an obvious interest in containing the "confidence cost" imposed on them by TMI, I suggested that the national nuclear and utility industries invest $190 million in the cleanup project.
>
> Because the Federal Government has the unique ability to assure the safe disposal of certain types of radioactive waste, and the unique ability to develop certain techniques vital to the cleanup process; because such activity would represent research and development of a broad national benefit; because the federal government has played an active role in the development, and a virtually exclusive role in the regulation, of commercial nuclear power; and because the Federal Government would end up paying far more in dollars for far less in research and public protec-

tion if this crisis were allowed to drift into a genuine radiation emergency—because of these considerations, I suggested that a Federal investment of $190 million in a safe and timely cleanup also would be appropriate.

Because General Public Utilities, Inc. (GPU), is the party that must assume basic responsibility for the accident, and for the cleanup, I suggested that it be assessed the largest single share of the bill—or $245 million.

And because I believe the very concept of sharing requires a good faith effort from those of use who represent the areas most directly affected, I suggested that the State governments of New Jersey and Pennsylvania invest another $45 million in the operation.

Governor Thornburgh also stated:

This is not a "bailout" in any sense of the word, for bailout would imply that we want your help in artificially propping up the future of General Public Utilities Corp.

If that were the intent, of course, I would be seeking enough funds not merely to remove the health and safety hazards posed by the current condition of Unit 2, but to actually restore that facility for future operation, and to take other steps to improve the company's general financial status.

The plan I have proposed for Federal participation would cover decontamination—nothing more.

Response of the Electric Utility Industry

On September 10, 1981, the Board of Directors of the Edison Electric Institute (EEI) responded to the cost-sharing proposal that had been made by Governor Thornburgh in July. EEI supported the Thornburgh plan by committing to raise $192 million in TMI-2 cleanup funds from the Nation's electric utility industry. (EEI is the national association of investor-owned electric utilities. Its members provide about 78 percent of the Nation's electricity and serve over 67 million customers.)

The EEI proposal consisted of a fixed utility commitment of $32 million a year for a period of 6 years, to be allocated as follows: $16 million per year to be provided by the electric utility industry as a whole; and $16 million per year to be provided as a surcharge based on nuclear generating capacity, to be paid by electric utilities with nuclear powerplant operating licenses or construction permits. The EEI proposal was not contingent upon the financial participation of others, including the Federal Government.

By comparison, S. 1606, as ordered reported by the Committee on Energy and Natural Resources, requires the payment of a fee only by those electric utilities with an ownership interest in one or more operating nuclear powerplants. This requirement restricts the fee obligation to nuclear utilities. Thus, the number of utilities that would contribute to the TMI-2 cleanup is reduced, but a higher annual fee is imposed on certain individual companies.

Hearing on S. 1606

A joint hearing on S. 1606 was held on October 20, 1981, by the Committee on Energy and Natural Resources and the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works. Testimony was received from Governor Thornburgh, the Department of Energy, the Nuclear Regulatory Commission, the general Accounting Office, GPU, and EEI. In addition, testimony was presented by a panel of witnesses representing two nuclear insurance company pools, an insurance association, two banks, and an investment banking firm. Other witnesses included the chairman of a citizen's advisory group situated in Harrisburg, Pennsylvania, the mayor of a town located near the TMI plant, and representatives of several environmental groups and public interest organizations.

In general, the testimony presented at the hearing addressed three subjects: Nuclear insurance coverage, the Thornburgh plan, and various alternative proposals for financing the TMI cleanup.

The views of the Department of Energy were presented by the Secretary of Energy, James B. Edwards, and the Assistant Secretary for Nuclear Energy, Shelby T. Brewer. Secretary Edwards noted that S. 1606, as introduced, would have established a supplemental property insurance fund to pay the costs of remedial action following any future damage to nuclear powerplants, and to provide additional funds for the cleanup of TMI-2. He stated that it was possible to achieve both of those objectives on the basis of initiatives already taken.

With regard to the supplemental insurance fund, Secretary Edwards stated that private efforts are under way to establish more adequate levels of private property insurance. He expressed his belief that those efforts will be successful, making a federally mandated program unnecessary.

In the case of the TMI cleanup, he stated that a "pragmatic solution" is already in place, and is coming about largely as a result of the interests and efforts of the various parties involved in the cost-sharing approach by Governor Thornburgh.

Finally, Secretary Edwards emphasized the technical assistance provided by DOE as part of the cleanup operation. In particular, he described DOE's expanded research and development role in the cleanup, and he noted that it is consistent with Governor Thornburgh's proposal for shared responsibility among the various parties.

Governor Thornburgh provided his views on the many adverse consequences of the accident, and he outlined his cost-sharing plan. The Thornburgh plan, and the rationale for the cost allocations it contains, are described in a preceding subsection of this report.

The Chairman of the Nuclear Regulatory Commission, Nunzio J. Palladino, testified that the NRC's principal concern is protection of the public health and safety. He stated:

> We view the conditions persisting at that site since the accident as very serious. Most disturbing is the uncertainty about the availability of resources combined with the increasing potential for hazard to the public as time passes with little progress being made.

Thus, the NRC supports taking prompt steps to overcome the financial problems that are hindering the cleanup of TMI–2 in order to insure that the public health and safety is not threatened. Although the Commission did not take a position on any specific proposals for funding the cleanup of TMI–2, Chairman Palladino noted that the electric utility industry's proposed $190 million contribution should provide an important increment in cleanup funding that should be encouraged. He also stated that the Commission intends to support both Federal and State initiatives to expedite the cleanup of TMI–2.

The General Accounting Office provided the Committee with detailed testimony on a number of issues. Included in the testimony were the estimated costs of various cleanup activities, and the sources of the contributions for TMI maintenance and cleanup made to date. The GAO also questioned the ratemaking policies employed by the two State regulatory commissions after the TMI accident. The GAO testified that the commissions have forced GPU to cope with the accident recovery effort and maintain system reliability with very limited financial resources. The GAO observed:

> We find it somewhat paradoxical that regulatory commissions are quick to take advantage of utilities' efforts to reduce consumer costs by constructing nuclear units with low operating costs but are reluctant to have the consumers that benefitted from the lower cost energy share the risk with the companies and participate in a recovery effort when an accident happens. The company, in effect, is financially penalized as a result of efforts taken to keep rates low. We do not believe that the interests of equity are well served by this "one-way street" type of rate treatment. We further believe that this is an important lesson that all State regulators can learn from the TMI experience and, if appropriately applied, would help mitigate the adverse consequences of any future accident.

The GAO concurred with the Department of Energy in concluding that S. 1606, as introduced, is premature, because it would require Federal involvement that is not needed at this time. It was the GAO's position that initiatives currently underway within the private sector need to be given an opportunity to be developed.

GPU provided detailed testimony on the magnitude of the TMI–2 cleanup program, the financial impact of the accident, the question of bankruptcy, the importance of the timely restart of TMI–1, and Governor Thornburgh's cost sharing proposal. GPU expressed its strong belief that a funding program which spreads the cost of the cleanup beyond GPU customers and stockholders is justified. According to GPU, considerations of equity, responsibility, and self-interest require such cost sharing. GPU stated that it has the financial resources to clean up the contaminated water in the containment building, but it is not in the financial position to carry out a comprehensive plan for the cleanup of the entire plant. Thus, GPU concluded that there is a clear need for prompt action in the development of a cleanup funding package that would include a number of funding sources.

The Edison Electric Institute (EEI) testified that the failure to settle the TMI-2 cleanup issue, which would leave GPU's future solvency in doubt, could adversely affect the financial standing of all utilities, particularly nuclear utilities. This, in turn, would result in higher money costs and ultimately would raise the cost of electric service to customers. In discussing its commitment to provide $192 million for TMI-2 cleanup operations, EEI expressed its support for Governor Thornburgh's proposal and also urged the prompt restart of TMI-1 as a necessary element in the cleanup program.

It was the consensus of the witnesses representing the insurance and banking industries that a Federal insurance program such as that proposed by S. 1606, as introduced, is not justified. The insurance companies took the position that the case of S. 1606 would be stronger if there were an inability of private sources to provide sufficient insurance coverage, but they noted that no such inability has been demonstrated.

Witnesses representing the 45 banks that provide revolving credit to GPU suggested that insurance needs could be met by a much less elaborate framework than the program contained in S. 1606 as introduced. They proposed that a Federal agency be provided with standby authority to pay property damage claims exceeding the available amount of private coverage. In addition, the banking witnesses expressed their agreement with the cleanup funding requirement assumed in Governor Thornburg's proposal, and they felt that the proposed distribution is equitable. However, they were concerned about whether firm funding commitments could be lined up early enough in 1982 to prevent a major financial problem in 1983.

Witnesses representing certain environmental groups and public interest organizations presented a detailed analysis of Governor Thornburgh's plan. They concluded that the plan is a promising approach that should be encouraged, although they had specific reservations about several aspects of the plan. Also, they opposed a major Federal contribution to the cleanup beyond the research and development activities already underway. This contrasts with the views of other witnesses who live in the vicinity of TMI. They advocated much more substantial financial assistance from the Federal Government in the form of either direct funding or a loan.

IV. Need for the Legislation

Status of Cleanup Operations

The Nuclear Regulatory Commission has provided the following description of the progress of the TMI cleanup:

> *March 1982 Status of TMI-2 Cleanup.*—Within several weeks of the accident, the decontamination of contaminated areas in the auxiliary and fuel handling buildings was initiated and approximately 70 percent of the area has been decontaminated. However, some of the more difficult areas to clean up were bypassed. Other significant cleanup accomplishments include the purging of the contaminated atmosphere from the reactor building, the processing of ac-

> cident-related water which collected in the auxiliary and reactor buildings, and the shipment of some of the radioactive solid waste generated as a result of cleanup activities. Approximately 750,000 gallons of moderately contaminated water from the auxiliary building and 600,000 gallons of highly contaminated water from the reactor building have been processed. The reactor building has been purged of the 45,000 curie inventory of Kr-85 which collected during the accident. Lastly, 22 low-level waste resin liners generated as a result of accident water processing, and large quantities of other low radiation level waste, have been shipped to a commercial burial site for disposal.

The remaining cleanup operation has been described by the NRC as follows:

> While the cleanup completed to date represents a degree of progress toward total plant cleanup, a great deal of difficult work remains to be done. About 5 percent of the highly contaminated water remains in the reactor building (approximately 30,000 gallons) and 90,000 gallons in the reactor coolant system require processing. The balance of the most contaminated floors and surfaces in the auxiliary building remain to be decontaminated. Although a large-scale experiment for gross decontamination is in progress in portions of the reactor building, the entire reactor building will have to undergo detailed decontamination. The most difficult task ahead, defueling of the damaged core, is not anticipated for at least several years. Following defueling, the reactor coolant system surfaces will require decontamination. The processed accident-generated water will require ultimate disposition and the higher level solid waste resulting from water processing and other decontamination activities will require offsite shipment to a commercial or Federal facility for disposal or research, as appropriate. Finally, the damaged fuel assemblies and reactor vessel internals will require offsite disposition.

Risks of Delayed Cleanup

If the cleanup of TMI–2 is not accelerated, the result will be an increase in health and safety risks to workers involved in cleanup activities, to the residents living in the vicinity of the plant, and to those living on the Susquehanna River downstream from the plant. In a letter to James A. McClure, Chairman, Committee on Energy and Natural Resources, dated March 22, 1982, Nunzio J. Palladino, the Chairman of the Nuclear Regulatory Commission, explained why the health and safety risks would increase if the cleanup is delayed. He stated:

> The TMI–2 reactor and related facilities have remained in a condition for which they were not designed for three years. Only limited progress has been made in the cleanup.[1] and uncertainties about long-term plant capabili-

[1] Committee note: The full text of this footnote is reprinted above as the two quoted paragraphs in the preceding subsection.

ties persist. Even though TMI-2 is presently in a safe shutdown condition and public health, safety and the environment are being adequately protected, this situation is not certain to remain stable.

If TMI-2 is allowed to remain in its present condition over the long term, accidents involving radiation leakage and subsequent exposure to workers and the public have a greater probability for occurrence. The potential for these adverse events,[2] although small now, will increase with time as TMI-2 equipment deteriorates. Such deterioration will be the inevitable result of maintenance limitations in areas of the TMI-2 facility where high radiation fields persist. Since the radioactive fission products and the damaged fuel presently contained in the reactor and the containment building will remain radioactive for an extremely long time, potential leakage of radioactive materials to the environment will continue to pose a serious threat until the fuel is removed, the facilities are decontaminated and all radioactive wastes are disposed of safely.

In combination with mechanical deterioration over time, natural phenomena (e.g., unexpectedly severe weather) and other adverse scenarios (e.g., fire) pose a potential threat to continued successful containment of TMI-2 contamination and stored waste. Although the likelihood of severe weather or a fire resulting in a radiation release to the environment is small, the possibility does exist, and the probability for such events occurring increases with time. Only the completion of all cleanup and radioactive waste disposal activities at the TMI-2 site will eliminate all possiblity of inadvertent radioactive releases.

Need for Financial Assistance

If GPU is unable to obtain substantial financial assistance from a variety of sources, the cleanup of TMI-2 will be seriously delayed, and GPU will face the prospect of bankruptcy. The question of bankruptcy and its impact on GPU's system and cleanup obligations has been evaluated in detail. Bankruptcy is not a desired or a viable option. It is not a simple matter of new investors buying the company at a discount.

The institution of bankruptcy proceedings would not pay for the cleanup, nor would it reduce the costs of supplying electricity to GPU customers. Whether or not GPU continues to exist as an organizational entity, the costs remain. Given the legal obligation of electric utilities to provide reliable electric service to their custom-

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[2] *Potential Health and Safety Events:* Specifically, potentially adverse public health and safety events fall in two general categories:

(a) Accidents resulting in worker exposures—leakage from valves, pipes or tanks which does not reach the environment but which does expose workers either accidentally or while attending to the problem.

(b) Accidents resulting in radioactive releases to the environment—leakage resulting from a breach of the reactor building or processed water storage tank integrity and airborne releases generated by a mishap inside the plant and not removed by the plant's filtration system. There is also potential for releases from the interim storage of radioactive waste materials external to the plant buildings.

ers, any existing utility must constantly maintain its plant and equipment and build new generating capacity, as necessary. In sharp contrast to other corporate situations where large debts can be reduced or eliminated through reorganization proceedings, where factories can be closed and abandoned, or where product lines can be eliminated, the fact remains that the supply of electricity must continue while the cleanup of Three Mile Island is accomplished.

Bankruptcy proceedings would seriously threaten the timely completion of cleanup operations and the continuation of reliable electric service in approximately half the land area of Pennsylvania and New Jersey. Moreover, bankruptcy would provide no benefits for the 4 million residents of GPU's service area or the economy of that area, nor would it assist the many taxing authorities dependent upon revenues from GPU. The bankruptcy of GPU would have no national benefits. To the contrary, it would adversely affect ratepayers throughout the country, because it would significantly increase the cost of capital for the entire electric utility industry.

Since the cleanup operation consists of a carefully planned sequence of activities, there is a limit to the amount of cleanup work that can be efficiently and safely performed in any one year. Accordingly, there is a practical limitation on annual cleanup costs. This optimum spending level has been caculated to be within a range of $110 to $150 million per year for about 6 years.

Remaining insurance proceeds can provide only a small portion of the funds required to complete the cleanup. At the time of the accident, the property insurance coverage for TMI-2 was $300 million. Of that amount, approximately $220 million has been spent to date on initial cleanup operations. By the end of 1981, cleanup expenditures totaled approximately $274 million. Thus, insurance proceeds have been the primary source of funds for the cleanup work that has occurred to date. However, unexpended insurance funds amount to only $80 million. GPU intends to spend those remaining funds during 1982-83 at a rate of about $40 million per year.

In January 1982, the Pennsylvania Public Utilities Commission approved a rate settlement for Metropolitan Edison Company and Pennsylvania Electric Company that recognizes that customers will have to pay part of the cleanup costs.

The rate settlement approved by the Pennsylvania Commission included a $25 million per year increase in rates for the Met-Ed customers and a $12.5 million per year increase for Penelec customers. The revenues from these rate increases will be committed to the TMI-2 cleanup during the next 6 years. These customer revenues will be paid into a specially created trust fund (referred to as the "Pennsylvania Trust" in S. 1606) to be held and expended only for TMI-2 cleanup costs.

Under the terms of the rate settlement, these rate increases will not go into effect until TMI-1 (the undamaged reactor at Three Mile Island) is returned to substantial service. Thus, the restart of TMI-1 was initially made a condition to direct contributions by

GPU's Pennsylvania ratepayers to the cleanup of TMI-2. However, a petition to modify the January 1982 rate settlement was filed with the Pennsylvania Commission by GPU on August 6, 1982. The requested modification, if granted, would permit Met-Ed and Penelec to contribute directly to the TMI-2 cleanup prior to the restart of TMI-1. The source of the payments would be current operating revenues. Under the proposal, Met-Ed would contribute $17 million on an annual basis, and Penelec would contribute $5 million annually. These payments would continue until the restart of TMI-1. At that time, the contributions of the two companies would increase to a total of $37.5 million per year, the amount authorized by the January 1982 rate settlement.

On July 15, 1982, the New Jersey Board of Public Utilities issued an order (effective July 21, 1982) approving a rate increase for Jersey Central Power and Light Company (JCP&L) in the amount of $82.7 million. Of this amount, $12.24 million per year is being applied directly to the cleanup of TMI-2. Thus, as a consequence of the rate order having gone into effect, contributions are currently being made to the TMI-2 cleanup by the ratepayers of one of the three utility owners of the plant. Pursuant to the July 15, 1982 order, JCP&L's contributions to the TMI-2 cleanup will continue for five years, amounting to a total payment by JCP&L of $61,250,000. By authorizing this contribution, the New Jersey Board of Public Utilities has permitted JCP&L to pay the full amount of its allocated share of the TMI-2 cleanup costs under the Thornburgh plan.

The restart of TMI-1 has become a principal element in the overall plan for financing the cleanup of TMI-2. Unfortunately, the restart of TMI-1 has been delayed for a period of 6 to 12 months by serious new technical problems. Corrosion has been discovered in the inside of about one-third of the 31,000 heat-exchange tubes in the reactor's steam generators. The corrosion has caused tube wall cracks which could result in leakege of radioactive water during reactor operation. Additional studies of the nature and extent of the damage must be completed before decisions can be made in repair or replacement of the tubes.

Furthermore, a major legal obstacle may delay the restart of TMI-1 beyond completion of the steam generator repairs. In January of this year, the U.S. Court of Appeals for the District of Columbia Circuit ordered the Nuclear Regulatory Commission (NRC) to assess the effects of restarting TMI-1 on the psychological health of the neighboring residents and on the well-being of the surrounding communities. The NRC was ordered to determine, on the basis of that assessment, whether a full "environmental impact statement" must be prepared. The Commission was prohibited by the court from ordering the restart of TMI-1 until it has complied with the court's order.

These technical and legal problems amount to serious setbacks in the restart schedule for TMI-1. Thus, they add a new degree of urgency to the utility industry's financial contribution to the TMI-2 cleanup operation.

In addition to insurance funds and ratepayer contributions, other primary sources of cleanup funds are the Department of Energy, which will contribute $15 to $20 million per year through research

and development activities, and direct payments by the States of Pennsylvania and New Jersey amounting to a combined total of *$7.5 million per year.*

It is evident that the funds from these sources—insurance, ratepayers, the Federal Government, and the two States served by GPU—will not provide sufficient annual funding to sustain the accelerated level of cleanup activity that is necessary for maintaining TMI-2 in a safe condition. Therefore, direct financial assistance from the electric utility industry is essential to the timely cleanup of the plant. That is particularly true in light of two facts: The remaining insurance proceeds will be exhausted in 2 years, and the full amount of the authorized annual contributions of GPU's ratepayers will not be forthcoming for at least 6 months and possibly a much longer period.

Under the terms of S. 1606, as ordered reported by the Committee on Energy and Natural Resources, GPU would receive $27 to $29 million per year from other electric utilities. The payments would be made over a 6-year period. The primary need for this financial assistance is grounded on GPU's inability to obtain adequate funds from other sources, and on the absolute necessity, for public health and safety reasons, to complete the cleanup as soon as possible. Moreover, another important purpose would be served by the utility industry's contribution to the cleanup: Avoiding the higher costs of electric energy that most likely would result from the failure to obtain adequate financing for the TMI-2 cleanup. Those cost increases, if they occur, would be paid by the ratepayers of all electric utilities.

V. Legislative History

Senator Heinz introduced S. 1606 on September 10, 1981. Subsequently, the measure was cosponsored by Senators Specter and Bradley.

The bill was referred jointly to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources, pursuant to the order of September 9, 1981. The two Committees held a joint hearing on October 20, 1981. A summary of the testimony presented at the hearing is set forth in the preceding section of this report.

The Committee on Energy and Natural Resources considered amendments to S. 1606 in open business sessions held on March 24 and 31, 1982. Following adoption of a number of amendments, on March 31, 1982, the Committee by a majority vote ordered reported S. 1606 with an amendment in the nature of a substitute.

VI. Committee Recommendations and Tabulation of Votes

The Committee on Energy and Natural Resources, in open business session on March 31, 1982, by a majority vote of a quorum present, recommends that the Senate pass S. 1606, as amended.

During the Committee's consideration of the bill, voice votes were taken on amendments offered to the bill. These votes were taken in open business session, have been announced publicly by the Committee, and are included in the minutes of each session in

accordance with the requirements of section 133(b) of the Legislative Reorganization Act of 1946, as amended.

The rollcall vote on the motion to report an amendment in the nature of a substitute was 12 yeas and 8 nays, as follows:

YEAS	NAYS
McClure	Hatfield [1]
Wallop [1]	Weicker [1]
Warner	Domenici [1]
Murkowski	Humphrey
Nickles	Jackson [1]
East [1]	Bumpers
Heinz	Metzenbaum [1]
Johnston	Tsongas
Ford	
Matsunaga [1]	
Melcher	
Bradley	

VII. Committee Amendments

As introduced, S. 1606 provided for the establishment of a supplemental property insurance fund to pay the costs of remedial action following any future damage to nuclear powerplants, and to provide additional funds for the cleanup of Three Mile Island Generating Unit No. 2 (TMI-2). The Committee on Energy and Natural Resources adopted an amendment in the nature of a substitute to S. 1606.

The Committee amendment provides that every electric utility which operates or owns (in whole or in part) a nuclear powerplant would pay an annual fee of $0.28 for each kilowatt of its proprietary share of the authorized electric power level of each nuclear powerplant under construction or licensed to operate on or after the effective date of the bill. The fee would not be required under certain circumstances of license suspension or revocation or plant shut-downs.

The amendment also provides that the utility contributions be paid into a federally administered trust fund, or into a private trust fund under certain circumstances. The provisions relating to the trust funds were not amended by the Committee and are set forth in sections 6 and 7 of the bill as reported.

The Committee amendment defines "nuclear utility" to exclude those utilities "constructing" a nuclear powerplant pursuant to a construction permit. Thus, the utilities required to contribute to the funding of the TMI-2 cleanup would be only those with an ownership interest in one or more operating nuclear powerplants. Those utilities that have nuclear powerplants under construction, but do not have operating nuclear units, would be exempt from the fee. Thus, the burden of the utility industry contribution to the TMI-2 cleanup would be borne by those utilities that own operat-

[1] Indicates voted by proxy.

ing nuclear powerplants and are therefore receiving the benefits of nuclear power.

The Committee amendment imposes a ceiling of $1.6 million applicable to the annual fee paid by any individual utility. The Committee recognized that the fee of 28 cents per kilowatt would result in relatively large annual payments by several utilities that have made a major commitment to nuclear power by constructing and operating a number of nuclear units. To avoid what might otherwise have been inequitable treatment of those utilities, the Committee limited their annual payments to a maximum of $1.6 million.

Finally, the Committee added section 9 to the bill, which provides that nothing in the Act shall be construed to prescribe the ratemaking treatment, by State regulatory bodies and the Federal Energy Regulatory Commission, of payments made pursuant to section 5(a).

VIII. Section-By-Section Analysis

Section 1—Short Title

This section contains the short title of the bill. The Act may be cited as the "Electric Utility Nuclear Accident Cost Allocation Act".

Section 2—Findings

This section contains the statement of Congressional findings. The section describes the accident at Three Mile Island Generating Unit No. 2 (TMI-2) and the need to remove the fuel and radioactive waste in order to eliminate the risk of environmental contamination. Section 2 also contains the finding that the cost of the TMI-2 cleanup is beyond the ability of its owners alone to fund, and a shared approach to funding the TMI-2 cleanup is fundamental to a solution to the problems faced by the electric utility industry as a result of the accident.

In addition, the finding is made that failure to complete the timely cleanup of TMI-2 has adversely affected and will continue to adversely affect investor confidence in the securities of electric utilities, particularly those owning or operating nuclear generating units. The result, as stated in the findings, would be an increase in the cost of electric energy and the rates which consumers must pay for electric energy.

Section 2 also states that Congressional action is necessary to assure the financial participation in the TMI-2 cleanup process of those electric utilities primarily benefiting from nuclear generation, and to assure the equitable apportionment of a portion of the uninsured cost of the TMI-2 cleanup among those utilities.

Section 3—Purpose

Section 3 states that the purpose of the legislation is to establish a national program to equitably distribute the cost of decontaminating TMI-2 among the Nation's nuclear utilities in order to protect the public health and safety and provide for the common defense and the interests of interstate and foreign commerce, which are heavily dependent on reliable supplies of energy.

Section 4—Definitions

Section 4 defines "nuclear utility" as any investor-owned electric company, any State-owned, federally owned or municipally owned electric system, and any rural electric cooperative, having a proprietary interest in an nuclear generating unit that has been licensed to operate under the Atomic Energy Act of 1954. If an electric utility is constructing a nuclear reactor, but has not yet been granted an operating license for any reactor, it is not a nuclear utility under this definition. In addition, the section defines what is meant by "TMI-2" and "TMI-2 cleanup." The term "Trust Fund" means the TMI-2 Cleanup Trust Fund created on the books of the Treasury of the United States, and the term "Pennsylvania Trust" means the private trust fund created pursuant to the Pennsylvania Public Utility Commission order of January 8, 1982.

Section 5—TMI-2 Cleanup Fee

Section 5(a) requires each nuclear utility to pay an annual fee based on the electrical power level, expressed in kilowatts, of both its operating reactors and reactors under construction up to a maximum annual payment of $1.6 million by a single nuclear utility.

Specific exemptions from the fee are provided if the construction permit or operating license for a nuclear facility is enjoined, surrendered, or revoked permanently during the 6-year period, of if the facility is permanently shut down.

Section 5(b) provides that payments of the fee be made into the TMI-2 Cleanup Trust Fund upon receipt of appropriate invoices from the Secretary of the Treasury, unless the utility elects to make such payments into the Pennsylvania Trust. Delinquent payments will bear interest at a prescribed rate.

Section 5(c) requires each nuclear utility to certify to the Secretary of Energy data describing the authorized electric power level of its nuclear facilities in order to permit computation of the amount of the annual fee to be paid by each nuclear utility.

Section 6—TMI-2 Cleanup Trust Fund

Section 6 establishes the TMI-2 Cleanup Trust Fund on the books of the Treasury of the United States and describes the operation of the Trust Fund. The Secretary of the Treasury is to manage and administer the fund subject to a requirement that an annual report be made to the Congress on the financial condition and operation of the Trust Fund. The Secretary of the Treasury's discretion over the investments that may be made with non-disbursed funds is limited to public debt securities with suitable maturities and interest rates. The Secretary of Energy is made co-trustee and is to review proposed cleanup programs to determine whether they are safe, as expeditious as practicable, cost effective, and consistent with the purposes of the bill. The Secretary of Energy will certify his approval to the Secretary of the Treasury, and the Secretary of the Treasury will then disburse the funds for TMI-2 cleanup.

Section 7—Pennsylvania Trust

Section 7(a) provides for the use of the Pennsylvania Trust as an alternative means for receiving and disbursing funds for the cleanup of TMI-2. The Pennsylvania Trust may be used if the Secretary of Energy makes certain findings concerning the Pennsylvania Trustee and the operation of the trust.

Section 7(b) provides that each nuclear utility that elects to make payments to the Pennsylvania Trust must furnish proof of such payments to the Secretary of Energy. The utility will then receive a credit in the same amount for any payments it is obligated to make to the TMI-2 Cleanup Trust Fund.

Section 7(c) provides that the Secretary of the Treasury, in consultation with the Secretary of Energy and after review of the reports made to the Secretary of Energy by the Pennsylvania Trustee, shall make an annual report to the Congress on the financial condition and operations of the Pennsylvania Trust pursuant to the bill.

Section 8—Enforcement

Section 8 provides that the United States District Courts shall have jurisdiction to enforce the provisions of S. 1606 without regard to jurisdictional amount. Enforcement actions may be brought by the Department of Justice upon the joint request of the Secretary of the Treasury and the Secretary of Energy, or by the Justice Department upon its own initiative.

Section 9—Effective Date

Section 9 provides that nothing in the bill shall be construed to prescribe the ratemaking treatment, by State regulatory bodies and the Federal Energy Regulatory Commission, of payments made pursuant to section 5(a). Thus, the State regulatory commissions and the Federal Energy Regulatory Commission have the discretion to decide the extent to which the utilities under their jurisdiction will recover from their ratepayers the fees paid pursuant to this bill. However, the discretion to be applied to the regulatory treatment of the fees does not affect the mandatory nature of the fee requirement itself. Any utility, if it qualifies as a "nuclear utility" under the terms of the Act, must pay the required annual fee regardless of the discretion to be subsequently exercised in determining the treatment of the payments for rate-making purposes.

Section 10—Effective Date

Section 10 is self-explanatory.

IX. Cost and Budgetary Considerations

The Committee anticipates that no significant budgetary impact would result from enactment of the legislation, since the bill does not authorize the Federal Government to make direct financial contributions to the TMI-2 cleanup. Rather, payments under the bill would be made by certain electric utilities. Minimal administrative costs would be incurred by the Federal Government. They would primarily consist of the cost to the Department of the Treasury of establishing and administering the TMI-2 Cleanup Trust

Fund, and the cost of the Secretary of Energy's review of the TMI-2 cleanup activities, the terms and operation of the Pennsylvania Trust, and the qualifications of the trustee of the Pennsylvania Trust.

The Congressional Budget Office's estimate of the cost of this measure is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 23, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resouces, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1606, the Electric Utility Nuclear Accident Cost Allocation Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1606.

2. Bill title: Electric Utility Nuclear Accident Cost Allocation Act.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, with an amendment in the nature of a substitute, March 31, 1982.

4. Bill purpose: This act would establish a national trust fund for the purpose of allocating and defraying the costs of the cleanup of Three Mile Island Unit No. 2 (TMI-2). Income to the fund would be derived from an annual fee on nuclear power plant capacity owned by nuclear utilities. Fees would be assessed during calendar years 1982 through 1987, and the receipts would be available without fiscal year limitation. The fund would have direct spending authority not subject to either authorization or appropriations action.

The trust fund would be administered jointly by the Department of the Treasury and the Department of Energy (DOE). The Treasury Department would act as the managing trustee, with responsibility for establishing the account, collecting and disbursing the receipts, and submitting annual reports to the Congress on the status of the fund. If the income to the fund exceeds the level of disbursements for a given time, the Secretary of the Treasury also is required to invest such amounts in public securities. The bill directs the Energy Department to implement procedures for assessing the fees and to certify that disbursements from the fund would be for programs that satisfy the standards in the bill. DOE also is to review and, if appropriate, certify whether the Pennsylvania Trust is qualifed to serve as an additional means of receiving and disbursing the funds.

5. Cost estimate: Because the costs of implementing this bill are to be covered by fees on nuclear power plant capacity, no net

budget impact is expected to result. Estimated receipts and spending levels are shown in the following table.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Receipts:					
Estimated budget authority		−52	−30	−31	−32
Estimated outlays		−52	−30	−31	−32
Spending:					
Estimated budget authority		52	30	31	32
Estimated outlays		52	30	31	32

CBO estimates that a total of $177 million would be collected from the fee between 1982 and 1987, when it would expire. In addition to the costs shown above, an estimated $200,000 in administrative costs would be incurred in fiscal year 1982, assuming enactment by July 1.

The costs of this bill fall within budget function 270.

6. Basis of estimate: This cost estimate assumes that the bill would become effective on July 1, 1982. Start-up costs of about $200,000 are likely to be incurred before receipts are deposited in the fund. Once receipts are collected, this fund is expected to have no net impact on the budget.

The receipts in the fund would be derived from a fee of $0.28363 per kilowatt (kW) of capacity owned by a nuclear utility. Under the definitions in the bill, a utility's share of capacity would not be subject to the fee until at least one unit is issued an operating license by the Nuclear Regulatory Commission (NRC). Utilities that have operating licenses would pay the fee on units with operating licenses and on units with construction permits. Section 5(a) exempts from the fee units that are expected to be shut down through 1987. It also limits the total annual fee imposed on an individual utility to $1.6 million.

CBO's receipt estimate is based on Nuclear Regulatory Commission data on nuclear power plant ownership, rated capacity, and licensing schedules as of April 1, 1982. Using the NRC data, the total rated capacity under either operating licenses or construction permits is approximately 137,700 megawatts (MW). Of this total, approximately 80,500 MW would be subject to the fee immediately, and another 34,300 MW would become liable within the 1982–1987 time period. The remaining 22,900 MW represent the capacity that would result in fees above the $1.6 million limit for specific utilities. For all years except 1982, it was assumed that the annual fee would be payable to the Treasury in the first quarter of each calendar year. Payments covering calendar year 1982 would be collected in fiscal year 1983. Utilities having construction permits but not operating licenses were expected to be liable for the fee beginning in the month in which the NRC grants an operating license. No significant interest income was assumed to accrue from investments, because funds are expected to be rapidly disbursed once they have been received. For the purpose of this estimate, it was assumed that all receipts would be credited to the federal trust fund, and none to the Pennsylvania Trust. Disbursements from the

fund were assumed to be made in amounts equivalent to the receipts collected in each fiscal year.

Administrative expenses are expected to be 2 to 3 percent of the total receipts collected, or about $800,000 per year. Most of these costs are attributable to DOE's certification of the prospective uses of the fund. This level of effort would support sufficient expertise to evaluate cost effectiveness, speed, and other features of the planning and implementation of the clean-up activities. The estimate assumes that DOE would not have to duplicate the NRC's review and findings on the safety of the measures. DOE also would be expected to use the staff resources currently involved in the department's research and development activities at the site. The costs associated with DOT's management of the fund would be negligible given the relatively small number of invoices, disbursements, investments, and reports. Administrative costs are expected to be covered by the receipts collected.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Kathleen M. Gramp.
10. Estimate approved by: C. G. Nuckols.

JAMES L. BLUM,
Assistant Director for Budget Analysis.

X. REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1606 as ordered reported by the Committee on Energy and Natural Resources.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities of a regulatory nature on private individuals and businesses. Rather, the measure would require the payment of an annual fee by certain electric utilities, and it would establish a Federally administered trust fund to be used in applying the collected revenues to the TMI-2 cleanup operation.

No personal information would be collected in administering the trust fund established by the bill or in conducting any other activity authorized by the bill. Therefore, there would be no impact on personal privacy.

XI. EXECUTIVE COMMUNICATIONS

The Committee did not request executive communications relating to S. 1606. At the hearing held on October 20, 1981, the Department of Energy presented testimony on the bill, which is contained in the printed hearing record (Publication No. 97-52).

XII. Minority Views

Minority Views of Senators Hatfield, Humphrey, Tsongas, and Bumpers

S. 1606—Three Mile Island Cleanup

The health and safety hazard at the contaminated TMI-2 reactor was three years old in March (March 28, 1979) and grows more serious as the participating utilities, the States of Pennsylvania and New Jersey, and the federal government attempt to resolve the issue of "sharing" financial responsibility for the costs of clean-up activities. While S. 1606, as amended, would put into place one element of a cost-sharing scheme, it is our strong opinion that the legislation is flawed in both its principle and its practice. In essence, we oppose S. 1606, as amended, because it: 1) weakens the credibility of the industry and impugns the integrity of the free market system by nationalizing financial liabilities which, pursuant to current industry practice, should be resolved at the regional level, and 2) compromises the basic principles of equity by shifting financial responsibility for clean-up costs away from GPU ratepayers and stockholders and onto other national nuclear utilities. Let us explain.

The accident at Three Mile Island was the most highly publicized calamity of the nuclear industry in recent years. By no means, however, has it been the only problem to plague industry officials and their associated ratepayers and stockholders. Dozens of other safety related shut-downs, and construction delays have occurred nationwide from Diablo Canyon, California to Seabrook, New Hampshire. All these incidents have incurred substantial economic losses on the industry as more expensive replacement power must be purchased. The result has been increased utility rates, lower returns to stockholders, and weakened bond ratings. More devastating losses have been incurred recently as substantial downward adjustments in electric demand projections have forced the termination of construction on dozens of nuclear facilities across the country, the most notable being the close-out of two reactors by the Washington Public Power Supply System (WPPSS 4 and 5). The financial impact of terminating these two plants alone will be about $7 billion ($2.25 billion in principal plus $4.75 billion for interest over 35 years), all of which will be borne by ratepayers of one private utility and its shareholders and 88 participating public utilities in the Pacific Northwest. The magnitude of such a debt is enough to raise most participant's customers retail electric rates in the near-term on average by 20 to 50 percent. If this debt were spread evenly to the entire Pacific Northwest (Washington, Oregon,

Idaho and Western Montana), it would impose an assessment of about $2,600 on every household in the region over the 35 year period. In essence these unfortunate circumstances have incurred financial and public liabilities equal to, if not in excess of, those of the accident at Three Mile Island. Yet in our above cited examples industry along with local, state and regional governments are addressing these crises through established public and private financial markets.

Notwithstanding the honorable intentions of resolving a serious health and safety hazard, it is our strong opinion that S. 1606 weakens the credibility of the nuclear industry and impugns the integrity of the free market system by nationalizing financial liabilities which, pursuant to current industry practices, should be resolved at the regional level. Moreover, no compelling evidence has come to our attention to demonstrate the inability of the affected states and utilities to shoulder the entire financial cost of TMI-2 clean-up, rather it has been an unwillingness to assume complete responsibility. On that point rests our final objection to the legislation, that is one of equity.

According to a recent GAO report, the federal government, through five different agencies has already "committed approximately $275 million during the 1979-81 period for TMI-related matters." Much of this amount was to assure safe and environmentally sound waste recovery practices through the federal regulatory process. As well, in testimony presented to this Committee, GAO Energy Director J. Dexter Peach stated that had Metropolitan Edison increased their rates by 1.0 cent/kwh at the time of the accident (about a 15.5 percent increase over 1980 rates), nearly $150 million annually could have been raised for clean-up activities, and the cost of clean-up could have been paid for by 1985. While regional customers may well be able to assume the entire clean-up costs, state PUC's have prevented utilities from charging higher rates to pay for such activities.

In a decision rendered by the Pennsylvania Public Utility Commission on January 8, 1982, the State of Pennsylvania provided for the collection of $115.7 million from Pennsylvania GPU customers, but made that contingent upon the start-up of the undamaged TMI-1 reactor. By the admission of Pennsylvania State officials and the federal Nuclear Regulatory Commission, serious doubts exist as to the future operation of TMI-1. Subsequent decisions by the New Jersey PUC have also limited payments by Penlec and New Jersey customers. In addition, President Reagan, in budget documents and supplemental letters has clearly proposed to limit the Department of Energy's portion of the clean-up related costs to $123 million of generic R&D, at least $72 million less than proposed in the cost-sharing plan.

The decisions of the regional PUC's and the President, in conjunction with the mandatory surcharge of this legislation, serve to shift the financial responsibility for clean-up away from GPU ratepayers and onto other national nuclear utilities, their ratepayers and shareholders. The unlikely start-up of TMI-1 and the Administration's decision to limit the federal role to R&D activities may well have been understood by the Committee, but to our knowledge the implications of the above-mentioned facts on the collection of

those remaining portions of the cost-sharing agreement were not fully discussed prior to reporting of the legislation. While the economic impact on individual ratepayers and shareholders may be relatively small, in our judgement serious questions of equity exist with this legislation.

In summary, notwithstanding the honorable intentions to resolve the serious health and safety hazard, it is our strong opinion that S. 1606, as amended: 1) weakens the credibility of industry and impugns and integrity of the freemarket system by nationalizing financial liabilities which, pursuant to current policies, should be resolved at the regional level, and; 2) compromises the basic principles of equity by shifting financial responsibilities of clean-up away from GPU customers and onto other national nuclear utilities when regional entities are, in fact, able but unwilling to assume appropriated financial responsibility. We urge others to oppose this legislation.

MARK O. HATFIELD.
GORDON J. HUMPHREY.
PAUL E. TSONGAS.
DALE BUMPERS.

Minority Views of Senator Humphrey

Many of my objections to S. 1606 have been articulated in the joint statement by Senators Hatfield, Tsongas, Bumpers, and myself. I would like to supplement those views with a brief explanation of the amendment I introduced in Committee to protect the regulatory authority of state public utility commissions.

As introduced in Committee, S. 1606 was billed as a vital step towards the consumation of a delicate cost-sharing agreement between the owners of Three Mile Island, the nation's unclear utilities, the States of Pennsylvania and New Jersey, and the Federal Government. The nuclear utilities had pledged a contribution of $190 million over a six-year period, and the legislation was intended to "lock-in" this commitment by making the payments a requirement of federal law.

But is this the real reason for the bill? Why do we need to pass a law requiring payments that the nuclear utilities have already agreed to make? If the intent of the legislation is to merely prevent the utilities from backing out of their commitment to help clean-up the damaged TMI reactor, why not have each utility sign a legally enforceable private contract compelling them to pay once the other elements of the cost-sharing agreement fall into place?

As I see it, the real motive behind S. 1606 is to require the automatic pass-through of these clean-up costs to nuclear utility ratepayers. Today the Federal Energy Regulatory Commission regulates roughly 10% of all electricity sales (wholesale sales in interstate commerce). The balance of retail sales are regulated by individual state utility commissions. All direct costs incurred by a regulated utility—fuel costs, operations and maintenance, construction costs—are routinely passed through to utility ratepayers. Indirect costs such as research and development, membership due in trade organizations, and other discretionary payments are subject to tougher scrutiny by regulatory bodies.

By making the nuclear utilities' TMI clean-up payments a requirement of federal law (and therefore an unavoidable expense), S. 1606 threatens to restrict the traditional authority of state utility commission to assess the cost of these payments as they find appropriate among each nuclear utility, its stockholders, and difference classes of ratepayers. This is the real rub behind S. 1606.

My amendment (section 9 of the Committee print) seeks to correct this deficiency by making clear that "Nothing in this Act shall be construed to prescribe the ratemaking treatment, by state regulatory bodies and the Federal Energy Regulatory Commission, of payments made pursuant to section 5(a)."

I think this is a responsible amendment. It is not intended to sabotage the bill; rather, it is intended to insure that TMI clean-up costs will receive a fair hearing before each public utility commission in the country. This is indispensible. Without the amendment,

we will not only be asking, we will be requiring the ratepayers of this nation to share in a burden they neither benefitted from in the first place nor can be expected to benefit from in the future. I can think of nothing which would have a more destructive impact on the credibility and public acceptability of nuclear power in America.

GORDON J. HUMPHREY.

Minority Views of Senators Jackson, Bumpers, and Hatfield

We oppose enactment of S. 1606 as reported by the Committee. The bill is fundamentally unfair, establishes an atrocious precedent in public policy and encourages those who should assume responsibility for financial support of the cleanup of the damaged reactor at Three Mile Island to continue to look for a bail-out at others' expense. Perhaps the most unfortunate feature of the bill is that it will actually delay TMI cleanup, perpetuating a health and safety hazard that is 3 years old and getting worse all the time. The bill makes delay inevitable by reinforcing the expectations of local officials in Pennsylvania and New Jersey that the Federal Government and others are going to rescue them from a problem which, however serious, is their responsibility.

The tragedy is that this problem is a very serious one. The danger of continued inaction and the cost of the solution are escalating every day. Yet nothing is happening. General Public Utilities, the owner of the TMI plants, has spent nearly all of the $300 million in insurance money that became available as a result of the accident on cleanup activities undertaken so far. The Reagan administration has committed $123 million in Federal funds to cover research and development activity at TMI. This money is being made available at an annual rate of about $25 million. The rest of the more than $1 billion total estimated cost of cleanup must come from sources other than insurance and Federal appropriations. We do not think that the ratepayers and stockholders of utilities in Oregon, Washington, Arkansas, or any other State should be required to make up any part of this difference.

This responsibility clearly belongs with the ratepayers and stockholders of GPU. For almost 3 years the Pennsylvania ratemaking authorities refused to permit actual recovery through rates of any cleanup funds whatsoever. At the Committee's hearings on S. 1606 the General Accounting Office testified that accident recovery costs of $150 million per year could be generated with rate increases by GPU subsidiary utilities of at most 15.5 percent above 1980 levels. The costs of the poor luck or negligence of the owners of the TMI plants should not be charged to any other utility. It is simply and very obvously unfair to expect that ratepayers and stockholders of utilities which have absolutely no connection with GPU should bear the burden of GPU's difficulties.

It is also a terrible precedent. All over the United States electric utilities and a variety of other owners of capital intensive energy projects and facilities face financial ruin from high interest rates, escalating construction costs, and uncertainty about future energy demand and prices. If we are going to require utility customers to contribute to a national pool of funds to assist those whose large supply projects are in financial difficulty, the line of applicants for

relief is going to be long indeed. It is a road down which we ought not go.

Finally, this bill sends precisely the wrong signal to those who bear the real responsibility for cleanup of the crippled TMI-2 powerplant. The purpose of S. 1606, as reported, is to effectuate one element of a proposal by Pennsylvania Governor Richard Thornburgh designed to collect a total of $760 million in future cleanup costs. S. 1606 would impose a mandatory surcharge to collect about $170 million from utilities nationwide. However, serious impediments confront the collection of monies from the other necessary components of this plan, principally, the GPU ratepayers.

In a decision rendered by the Pennsylvania Public Utility Commission on January 8, 1982, the State of Pennsylvania provided for the collection of $115.7 million from Pennsylvania GPU customers, but made that contingent upon the start-up of the previously undamaged TMI-1 reactor. By the admission of Pennsylvania State officials and the federal Nuclear Regulatory Commission, serious doubt exist that the TMI-1 plant will be able to operate at any time in the near future. Unless TMI-1 does become operational, GPU will be unable under the PUC order to satisfy even the limited commitment to the Thornburg cost-sharing plan agreed to by the Pennsylvania Commission. President Reagan has proposed limiting the U.S. government's portion of the clean-up costs to $123 million, $72 million less than proposed in the Thornburg cost-sharing plan. Enactment of S. 1606 can only encourage the Pennsylvania PUC to continue its three-year attempt to shift the financial responsibility for clean-up away from GPO ratepayers and onto the U.S. government and the rest of the nation's utilities, their ratepayers and their shareholders.

The only proper course for the Senate is to demonstrate clearly and convincing that there is no way that this shift in the cost of TMI cleanup can be made. Once that is realized in Pennsylvania and in New Jersey the real work in addressing the hazard posed by the TMI-2 plant can begin.

HENRY M. JACKSON.
DALE BUMPERS.
MARK O. HATFIELD.

Minority Views of Senator Tsongas

It is essential that the cleanup of the Three Mile Island unit-2 nuclear reactor (TMI-2), owned by General Public Utilities (GPU), proceeds expeditiously and with complete regard for public health and safety. But Federal legislation is not needed to help finance this operation. In spite of the good intentions of its authors, the Electric Utility Cost Allocation Act, S. 1606, is unnecessary and inequitable.

This legislation might be warranted if the cleanup of TMI-2 would cost so much that there could be no cleanup without Federal intervention. But the facts indicate otherwise.

GPU'S ratepayers are quite capable of paying for the cleanup. The residential rates charged by GPU's three subsidiaries average seven to nine cents per kilowatt hour. These rates are in line with, if not below, the charges levied by many neighboring utilities. Boston Edison Co., for example, charges nine to eleven cents per kilowatt hour for residential service. According to the Government Accounting Office, a ten percent surcharge ($150 million per year) on the GPU rate base could cover the cost of the entire TMI-2 cleanup in six years and still leave customers of GPU subsidiaries with rates below those charged by several neighboring utilities. In short, the entire TMI-2 cleanup can be financed by GPU customers without undue hardship.

GPU and nuclear industry officials acknowledge that this operation can proceed without Federal involvement. In September 1981, GPU Chairman William G. Kuhns, admitted that the TMI-2 cleanup "is not the rate-making burden that some tended to think when we first addressed the issue," adding that "even if the full burden were laid on the company, the rates of our customers will not be out of line with customers of other companies." And Barron's, the financial journal, reported in its August 24, 1981, issue that "industry sources say privately that if no federal or ratepayer contribution to the cleanup costs can be pried loose, the utilities are in fact prepared to bankroll the cleanup themselves rather than leave it hanging over the industry's head." Clearly, S. 1606 is not needed to finance the TMI-2 cleanup.

Even if S. 1606 were needed, its thrust is inequitable. As a result of rulings by the Pennsylvania and New Jersey Public Utility Commissions, GPU's own ratepayers have not yet contributed to cleanup costs. Yet S. 1606 would mandate that utilities across the country help pay for this project. And it is quite possible that GPU's customers will not be charged for cleanup costs at any time soon. According to the January 8, 1982, Pennsylvania Public Utility Commission rate settlement, no GPU ratepayer money can underwrite the TMI-2 cleanup until TMI-1 is working at 35 percent of capacity. But TMI-1 has been idle since 1979. There are institutional, legal, and technical barriers delaying resumption of its oper-

ations. It is patently unfair for taxpayers all over the country to start paying for the TMI-2 cleanup before GPU's own customers have contributed so much as a dime.

In addition, the government has no responsibility for financing the cleanup. GPU chose to build Three Mile Island in the hope of generating low-cost electricity for its ratepayers and earning substantial profits for its stockholders. GPU figured into its calculations the insurance coverage available to it and the potential liabilities that could result from an accident. Numerous studies of the Three Mile Island accident have documented GPU's errors in the operation and management of the TMI-2 reactor. In our economic system, those who take the risks are entitled to the benefits, but so must they also absorb the financial loss of a misadventure. The system thereby promotes investment and responsibility. While other utilities may wish to contribute voluntarily toward the TMI-2 cleanup, they ought not be required to pay for GPU's mistakes, as S. 1606 would require. The Federal role in the Three Mile Island cleanup should be limited to technical assistance and research, but nothing more. GPU and the New Jersey and Pennsylvania Public Utility Commissions should solve the financial problems resulting from the TMI-2 accident.

Finally, S. 1606 is flawed for another reason. It would subsidize the nuclear industry at a time when cuts of more than 80 percent are proposed for Federal programs in conservation, solar energy, and other renewable energy resources. And it would set a bad precedent for possible Federal help to other ailing utilities, whose financial problems range from cancelled nuclear powerplants (Washington Public Power Supply System), to construction delays (Seabrook, New Hampshire), to safety-related shutdowns (Indian Point, New York).

For these reasons, I strongly oppose S. 1606. This bill is not needed to secure financing for the TMI-2 cleanup. It is unfair to ratepayers and utilities across the country. The Congress must not signal the utility industry that we will socialize its losses while we "privatize" its profits. I urge my colleagues to join with me to defeat this legislation on the Senate floor.

PAUL E. TSONGAS.

XIII. Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 1606, as reported.

B—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

I. Views of the Committee on Environment and Public Works

The Committee on Environment and Public Works met on July 27, 1982, and by a vote of 10 to 6 ordered reported S. 1606, as reported by the Senate Committee on Energy and Natural Resources on March 31, 1982, without recommendation.

II. Section-by-Section Analysis

Section 1 provides that this bill may be cited as the "Electric Utility Nuclear Accident Cost Allocation Act."

Section 2 provides Congressional findings regarding the accident at Three Mile Island Unit No. 2 Nuclear power plant, near Harrisburg, Pennsylvania, the need for prompt cleanup, the ability of General Public Utilities, the owner of TMI-2, to fund such cleanup, the consequences of a failure to complete the cleanup in a timely fashion, and the need for federal legislation to ensure the financial participation of those utilities benefiting from nuclear power in the cleanup of TMI-2.

Section 3 provides language stating that the purpose of this bill "is to establish a broad-based national program to equitably distribute a portion of the uninsured cost of the cleanup of TMI-2 among those electric utilities primarily benefiting from nuclear generation; and, thereby, to protect the public health and safety, and provide for the common defense and the interests of interstate and foreign commerce, which are heavily dependent upon a reliable supply of electricity."

Section 4 provides definitions for the terms used in the bill.

Section 5 provides that each utility that owns or operates at least one nuclear power plant with an operating license shall be required to pay an annual fee based on the electrical power level, expressed in kilowatts, of both its operating reactors and reactors under construction, up to a maximum annual payment of $1.6 million for each nuclear utility. Specific exemptions from the fee are provided if the construction permit or operating license for a nuclear facility is enjoined, surrendered, or revoked permanently during the six-year period in which the fee is to be paid, or if the facility is permanently shut down. Payments are to be made into the TMI-2 Cleanup Trust Fund, established under Section 6, upon receipt of appropriate invoices from the Secretary of the Treasury, unless the utility elects to make such payments into the Pennsylvania Trust, established under State law. Delinquent payments will bear interest. Each nuclear utility is required to certify to the Secretary of Energy the authorized electric power level of its nuclear facilities,

in order to permit computation of the amount of the annual fee to be paid by each nuclear utility.

Section 6 establishes the TMI-2 Cleanup Trust Fund on the books of the Treasury of the United States and describes the operation of the Trust Fund. The Secretary of the Treasury is to manage and administer the fund subject to a requirement that an annual report be made to the Congress on the financial condition and operation of the Trust Fund. The Secretary of the Treasury's discretion over the investments that may be made witn non-disbursed funds is limited to public debt securities with suitable maturities and interest rates. The Secretary of Energy is made co-trustee and is to review proposed cleanup programs to determine whether they are safe, as expeditious as practicable, cost effective, and consistent with the purposes of the bill. The Secretary of Energy is to certify his approval to the Secretary of the Treasury, whereupon the latter is then to disburse the funds for TMI-2 cleanup.

Section 7 provides for the use of the Pennsylvania Trust as an alternative means for receiving and disbursing funds for the cleanup of TMI-2. The Pennsylvania Trust may be used if the Secretary of Energy makes certain findings concerning the Pennsylvania Trustee and the operation of the trust. This section further provides that each nuclear utility that elects to make payments to the Secretary of Energy. Upon such certification, the utility is then to receive a credit in the same amount for any payments it is obligated to make to the TMI-2 Cleanup Trust Fund. Finally, this section provides that the Secretary of the Treasury, in consultation with the Secretary of Energy and after review of the reports made to the Secretary of Energy by the Pennsylvania Trustee, shall submit an annual report to the Congress on the financial condition and operation of the Pennsylvania Trust.

Section 8 provides that the United States district courts shall have jurisdiction to enforce the provisions of this bill without regard to jurisdiction amount. Enforcement actions may be brought by the Department of Justice upon the joint request of the Secretary of the Treasury and the Secetary of Energy, or by the Justice Department upon its own initiative.

Section 9 provides that nothing in the bill shall be construed to prescribe the ratemaking treatment, by state regulatory bodies and the Federal Energy Regulatory Commission, of payments made pursuant to section 5(a). Thus, the State regulatory commissions and the Federal Energy Regulatory Commission have the discretion to decide the extent to which the utilities under their jurisdiction will recover from their ratepayers the fees paid pursuant to this bill. However, the discretion to be applied to the regulatory treatment of the fees does not affect the mandatory nature of the fee requirement itself. Any utility, if it qualifies as a "nuclear utility" under the terms of the Act, must pay the required annual fee regardless of the discretion to be subsequently exercised in determining the treatment of the payments for rate-making purposes.

Section 10 provides that this bill shall take effect upon the date of enactment.

III. Hearings

On May 20, 1982, the Committee on Environment and Public Works held a hearing to evaluate S. 1606 as reported by the Committee on Energy and Natural Resources. Testimony was presented by Senators Heinz, Specter, and Bradley, the Pennsylvania Public Utilities Commission, the New Jersey Board of Public Utilities, Edison Electric Institute, American Public Power Association, General Public Utilities, the Nuclear Regulatory Commission, the Department of Energy, the General Accounting Office, and the Union of Concerned Scientists. In addition, the Tennessee Valley Authority, the National Rural Electric Cooperative Association, and the Governor of Pennsylvania submitted statements for the record.

Previously, on October 20, 1981, the Committee on Energy and Natural Resources and the Committee on Environment and Public Works held a joint hearing on S. 1606, as introduced. Testimony was presented by the Governor of the State of Pennsylvania, the Department of Energy, the Nuclear Regulatory Commission, the General Accounting Office, General Public Utilities, and the Edison Electric Institute. In addition, testimony was presented by a panel of witnesses representing two nuclear insurance company pools, an insurance association, two banks, and an investment banking firm. Other witnesses included the chairman of a citizens' advisory group in Harrisburg, Pennsylvania, the Mayor of Middletown, Pennsylvania, which is located near the TMI reactor, and representatives of several environmental groups and public interest organizations.

IV. Rollcall Votes

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Environment and Public Works require that any roll call votes taken during consideration of this bill be announced in this report.

During the Committee's consideration of the bill, two rollcall votes were held. The first was a vote on a motion by Senators Gorton and Mitchell, to report S. 1606 to the Senate adversely, that is, recommending to the Senate that the bill do not pass. The vote was 7 yeas and 9 nays as follows:

YEAS	NAYS
Stafford	Abdnor
Baucus	Baker
Burdick	Bentsen
Domenici	Chafee
Gorton	Hart
Mitchell	Murkowski
Moynihan	Randolph
	Simpson
	Symms

The second vote was on a motion offered by Senator Simpson to report S. 1606 to the Senate without recommendation. The rollcall vote on this motion was 10 yeas and 6 nays as follows:

YEAS	NAYS
Abdnor	Stafford
Baker	Baucus
Bentsen	Chafee
Burdick	Domenici
Hart	Gorton
Moynihan	Mitchell
Murkowski	
Randolph	
Simpson	
Symms	

V. Cost of Legislation

Section 252. (a)(1) of the Legislative Reorganization Act of 1970 requires publication of the Committee's estimate of the costs of reported legislation, together with estimates prepared by any federal agency. In addition, section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. This information is set forth in the report that follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., August 6, 1982.

Hon. Robert T. Stafford,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1606, the Electric Utility Nuclear Accident Cost Allocation Act. CBO transmitted a cost estimate on April 23, 1982 for this bill as it was reported by the Senate Committee on Energy and Natural Resources.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

Congressional Budget Office—Cost Estimate

August 6, 1982.

1. Bill number: S. 1606.
2. Bill title: Electric Utility Nuclear Accident Cost Allocation Act.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, July 27, 1982.
4. Bill purpose: This act would establish a national trust fund for the purpose of allocating and defraying the costs of the cleanup of Three Mile Island Unit No. 2 (TMI-2). Income to the fund would be derived from an annual fee on nuclear power plant capacity owned by nuclear utilities. Fees would be assessed during calendar years 1982 through 1987, and the receipts would be available without fiscal year limitation. The fund would have direct spending authority not subject to either authorization or appropriations action.

The trust fund would be administered jointly by the Department of the Treasury and the Department of Energy (DOE). The Treasury Department would act as the managing trustee, with responsibility for establishing the account, collecting and disbursing the receipts, and submitting annual reports to the Congress on the status of the fund. If the income to the fund exceeds the level of disbursements for a given time, the Secretary of the Treasury also is required to invest such amounts in public securities. The bill directs the Energy Department to implement procedures for assessing the fees and to certify that disbursements from the fund would be for programs that satisfy the standards in the bill. DOE also is to review and, if appropriate, certify whether the Pennsylvania Trust is qualified to serve as an additional means of receiving and disbursing the funds.

5. Cost estimate: Because the costs of imlementing this bill are to be covered by fees on nuclear power plant capacity, no net budget impact is expected to result. Estimated receipts and spending levels are shown in the following table.

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Receipts:					
Estimated budget authority	−56	−30	−31	−32	−32
Estimated outlays	−56	−30	−31	−32	−32
Spending:					
Estimated budget authority	56	30	31	32	32
Estimated outlays	56	30	31	32	32

The costs of this bill fall within budget function 270.

6. Basis of estimate: This cost estimate assumes that the bill would become effective on October 1, 1982.

The receipts in the fund would be derived from a fee of $0.28363 per kilowatt (KW) of capacity owned by a nuclear utility. Under the definitions in the bill, a utility's share of capacity would not be subject to the fee until at least one unit is issued an operating license by the Nuclear Regulatory Commission (NRC). Utilities that have operating licenses would pay the fee on units with operating licenses and on units with construction permits. Section 5(a) exempts from the fee units that are expected to be shut down through 1987. It also limits the total annual fee imposed on an individual utility to $1.6 million.

CBO's receipt estimate is based on Nuclear Regulatory Commission data on nuclear power plant ownership, rated capacity, and licensing schedules as of April 1, 1982. Using the NRC data, the total rated capacity under either operating licenses or construction permits is approximately 137,700 megawatts (MW). Of this total, approximately 79,400 MW would be subject to the fee immediately, and another 34,300 MW would become liable for the fee within the 1982–1987 time period. The remaining 24,000 MW represent the capacity that would result in fees above the $1.6 million limit for specific utilities. For all years except 1982, it was assumed that the annual fee would be payable to the Treasury in the first quarter of each calendar year. Payments covering calendar year 1982 would

be collected in fiscal year 1983. Utilities having construction permits but not operating licenses were expected to be liable for the fee for the entire year in which the NRC grants an operating license. No significant interest income was assumed to accrue from investments, because funds are expected to be rapidly disbursed once they have been received. For the purpose of this estimate, it was assumed that all receipts would be credited to the federal trust fund, and none to the Pennsylvania Trust. Disbursements from the fund were assumed to be made in amounts equivalent to the receipts collected in each fiscal year.

Administrative expenses are expected to be 2 to 3 percent of the total receipts collected, or about $800,000 per year. Most of these costs are attributable to DOE's certification of the prospective uses of the fund. This level of effort would support sufficient expertise to evaluate cost effectiveness, speed, and other features of the planning and implementation of the clean-up activities. The estimate assumes that DOE would not have to duplicate the NRC's review and findings on the safety of the measures. DOE also would be expected to use the staff resources currently involved in the department's research and development activities at the site. The costs associated with DOT's management of the fund would be negligible given the relatively small number of invoices, disbursements, investments, and reports. Administrative costs are expected to be covered by the receipts collected.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 23, 1982, the Congressional Budget Office transmitted a cost estimate for S. 1606, the same bill as ordered reported by the Senate Committee on Energy and Natural Resources on March 31, 1982. Although the two bills are identical, this estimate of receipts differs slightly from the April 23 estimate. The difference reflects the assumption, based on information from the Committee staff, that utilities having construction permits but not operating licenses would be liable for the fee for the entire calendar year in which the operating licenses are granted. The total capacity excluded from the fee because of the $1.6 million limit per utility also was increased from 22,900 megawatts to 24,000 megawatts. These changes have the net effect of increasing estimated receipts over the fiscal years 1983 through 1987 from $177 million to $181 million.

9. Estimate prepared by: Kathleen M. Gramp (226–2860).

10. Estimated approved by: James L. Blum, Assistant Director for Budget Analysis.

VI. Evaluation of Regulatory Impact

In compliance with section 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact of the reported bill:

a. The bill is not a regulatory measure in the sense of imposing Government-established regulatory standards on private individuals and businesses.

b. The bill has no anticipated impact on personal privacy of individuals.

c. The bill is not expected to result in significant additional paperwork.

d. The bill would require that each nuclear utility pay an annual fee for each of the next six years of $0.28363 per kilowatt of nuclear generating capacity. No utility would be required to pay more than $1.6 million per year. The following table, prepared by the Congressional Budget Office, sets forth the number of utilities affected and the estimated amounts to be collected from each such utility over the next six years:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 8, 1982.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: At the request of the Subcommittee staff, the Congressional Budget Office (CBO) has estimated the annual fees that could be levied on nuclear utilities under S. 1606, the Electric Utility Nuclear Accident Cost Allocation Act. The projected fees are shown in the attached table for each utility that would be liable for the fee between 1982 and 1987. The utilities are catagorized according to the state in which the company maintains its corporate headquarters. It should be noted, however, that these data cannot be used to determine the impact of the fee on customers in each state, since many companies sell electricity in more than one state.

This estimate is based on the fee specified in S. 1606 as ordered reported by the Senate Committee on Energy and Natural Resources on March 31, 1982. Like CBO's April 23 cost estimate of that bill, this analysis is based on Nuclear Regulatory Commission data on nuclear power plant ownership, rated capacity and licensing schedules as of April 1, 1982. This estimate differs from the April 23 CBO estimate in three ways. First, the data are presented by calendar years instead of fiscal years to facilitate comparison with other estimates. Second, it was assumed that utilities having construction permits but not operating licenses would be liable for the fee for the entire calendar year in which the operating licenses are granted. Finally, the total capacity excluded from the fee because of the $1.6 million limit per utility was increased from 22,900 megawatts to 24,000 megawatts. These changes have the net effect of increasing the estimate of receipts collected in fiscal year 1983 from $52 million to $56 million, and the estimate of total receipts from $177 million to $181 million.

Should the Subcommittee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

ESTIMATE OF THE ANNUAL FEES ON NUCLEAR UTILITIES PURSUANT TO S. 1606

[By calendar years, in thousands of dollars]

State/nuclear utility [1]	1982	1983	1984	1985	1986	1987	Total
Alabama: Alabama Power	470	470	470	470	470	470	2,820
Arizona:							
Arizona Public Service Salt River Project	323	323	323	323	323	323	1,938
Salt River Project	260	260	260	260	260	260	1,560
Arkansas: Arkansas Power & Light	500	500	500	500	500	500	3,000
California:							
Anaheim Electrical Division	11	11	11	11	11	11	66
Los Angeles Department of Water & Power	63	63	63	63	63	63	378
Pacific Gas & Electric	621	621	621	621	621	621	3,726
Pacific Power & Light	43	43	43	43	43	43	258
Riverside Public Utilities	12	12	12	12	12	12	72
Sacramento Municipal Utility	260	260	260	260	260	260	1,560
San Diego Gas & Electric	154	154	154	154	154	154	924
Southern California Edison	769	769	769	769	769	769	4,614
Colorado: Public Service Co. of Colorado	94	94	94	94	94	94	564
Connecticut:							
Connecticut Light & Power	447	447	447	447	447	447	2,682
Connecticut Municipal Electric				6	6	6	18
Hartford Electric Light	213	213	213	213	213	213	1,278
United Illuminating	139	139	139	139	139	139	834
Delaware: Delmarva	92	92	92	92	92	92	552
Florida:							
Alachua Electrical Division	(2)	(2)	(2)	(2)	(2)	(2)	1
Bushnell Utilities Division	(2)	(2)	(2)	(2)	(2)	(2)	1
Florida Power	211	211	211	211	211	211	1,266
Florida Power & Light	845	845	845	845	845	845	5,070
Gainesville-Alachua County	3	3	3	3	3	3	18
Kissimee Utilities	2	2	2	2	2	2	12
Leesburg Municipal Electric	2	2	2	2	2	2	12
New Smyrna Beach Utility	1	1	1	1	1	1	6
Ocala Utilities Division	3	3	3	3	3	3	18
Orlando Utilities Commission	18	18	18	18	18	18	108
Sebring Utilities Commission	1	1	1	1	1	1	6
Seminole Electric Cooperative	4	4	4	4	4	4	24
Tallahasee Electric Department	3	3	3	3	3	3	18
Georgia:							
Dalton Water & Light	20	20	20	20	20	20	120
Georgia Power	538	538	538	538	538	538	3,228
Municipal Electric Authority	189	189	189	189	189	189	1,134
Oglethorpe Power Corp	320	320	320	320	320	320	1,920
Illinois:							
Commonwealth Edison	1,600	1,600	1,600	1,600	1,600	1,600	9,600
Illinois Power		485	485	485	485	485	2,425
Sayland Power Cooperative		28	28	28	28	28	140
Western Illinois Power Cooperative		26	26	26	26	26	130
Indiana:							
Public Service Co. of Indiana					532	532	1,064
Wabash Valley Power Association					109	109	218
Iowa:							
Central Iowa Power Cooperative	31	31	31	31	31	31	186
Corn Belt Power Cooperative	15	15	15	15	15	15	90
Iowa Electric Light & Power	107	107	107	107	107	107	642
Iowa-Illinois Gas & Electric	112	112	112	112	112	112	672
Kansas:							
Kansas City Power & Light		135	135	135	135	135	675
Kansas Electric Power Co		55	55	55	55	55	275
Kansas Gas & Electric		135	135	135	135	135	675
Louisiana:							
Cajun Electric Power Corp				79	79	79	237
Louisiana Power & Light		330	330	330	330	330	1,650
Middle South Utilities	638	638	638	638	638	638	3,828

Footnotes at end of table.

ESTIMATE OF THE ANNUAL FEES ON NUCLEAR UTILITIES PURSUANT TO S. 1606—Continued

[By calendar years, in thousands of dollars]

State/nuclear utility [1]	1982	1983	1984	1985	1986	1987	Total
Maine:							
Bangor Hydroelectric Co	31	31	31	31	31	31	186
Central Main Power Co	159	159	159	159	159	159	954
Maine Public Service Co	22	22	22	22	22	22	132
Maryland: Baltimore Gas & Electric	479	479	479	479	479	479	2,874
Massachusetts:							
Boston Edison	206	206	206	206	206	206	1,236
Cambridge Electric Light Co	21	21	21	21	21	21	126
Canal Electric Co		24	24	24	24	24	120
Chicopee Electric Light Division				4	4	4	12
Commonwealth Electric	1	1	1	1	1	1	6
Fitchburg Gas & Electric		7	7	7	7	7	35
Hudson Light & Power Department		1	1	1	1	1	5
Massachusetts Municipal Wholesale		103	103	103	103	103	515
Montaup Electric Co	63	63	63	63	63	63	378
New England Power Co	223	223	223	223	223	223	1,338
Faunton Municipal Lighting Plant		3	3	3	3	3	15
Western Massachusetts Electric Co	142	142	142	142	142	142	852
Michigan:							
Consumers Power	620	620	620	620	620	620	3,720
Detroit Edison	248	248	248	248	248	248	1,488
Indiana & Michigan Power	611	611	611	611	611	611	3,666
Northern Michigan Electric Cooperative	35	35	35	35	35	35	210
Wolverine Electric Cooperative	27	27	27	27	27	27	162
Minnesota: Northern States Power Co	455	455	455	455	455	455	2,730
Mississippi: South Mississippi Electric Power Association	71	71	71	71	71	71	426
Missouri: Union Electric		326	326	326	326	326	1,630
Nebraska:							
Nebraska Power District	221	221	221	221	221	221	1,326
Omaha Public Power District	136	136	136	136	136	136	816
New Hampshire:							
New Hampshire Electric Cooperative		15	15	15	15	15	75
Public Service of New Hampshire	276	276	276	276	276	276	1,656
New Jersey:							
Atlantic City Electric Co	107	107	107	107	107	107	642
Jersey Central Power & Light	242	242	242	242	242	242	1,452
Public Service Gas & Electric	811	811	811	811	811	811	4,866
New Mexico:							
El Paso Electric	175	175	175	175	175	175	1,050
Public Service Company of New Mexico	113	113	113	113	113	113	678
New York:							
Central Hudson Gas & Electric					28	28	56
Consolidated Edison	248	248	248	248	248	248	1,488
Long Island Lighting	296	296	296	296	296	296	1,776
New York State Electric & Gas					55	55	110
Niagara Mowhawk	301	301	301	301	301	301	1,806
Power Authority of the State of New York	507	507	507	507	507	507	3,042
Rochester Gas & Electric	177	177	177	177	177	177	1,062
North Carolina:							
Carolina Power & Light	1,096	1,096	1,096	1,096	1,096	1,096	6,576
Duke Power Co	1,600	1,600	1,600	1,600	1,600	1,600	9,600
North Carolina Membership Cooperative		183	183	183	183	183	915
North Carolina Municipal Agency No. 1				162	162	162	486
North Carolina Power Agency No. 3	87	87	87	87	87	87	522
Ohio:							
Cincinatti Gas & Electric	92	92	92	92	92	92	522
Cleveland Electric Illuminating Co	404	404	404	404	404	404	2,424
Columbus & Southern Ohio Electric	65	65	65	65	65	65	390
Dayton Power & Light	72	72	72	72	72	72	432
Dusquene Light Co	242	242	242	242	242	242	1,452
Ohio Edison	391	391	391	391	391	391	2,346
Toledo Edison	309	309	309	309	309	309	1,854

Footnotes at end of table.

ESTIMATE OF THE ANNUAL FEES ON NUCLEAR UTILITIES PURSUANT TO S. 1606—Continued

[By calendar years, in thousands of dollars]

State/nuclear utility [1]	1982	1983	1984	1985	1986	1987	Total
Oregon:							
Eugene Water & Electric Board	96	96	96	96	96	96	576
Portland General Electric Co	252	252	252	252	252	252	1,512
Pennsylvania:							
Allegheny Power Cooperative	60	60	60	60	60	60	360
Metropolitan Edison	116	116	116	116	116	116	696
Pennsylvania Electric Co	58	58	58	58	58	58	348
Pennsylvania Power Co	78	78	78	78	78	78	468
Pennsylvania Power & Light	537	537	537	537	537	537	3,222
Philadelphia Electric Co	1,127	1,127	1,127	1,127	1,127	1,127	6,762
South Carolina:							
Piedmont Muncipal				81	81	81	243
Saluda River Electric Cooperative		61	61	61	61	61	305
South Carolina Electric & Gas	171	171	171	171	171	171	1,026
South Carolina Public Service Authority	84	84	84	84	84	84	504
Tennessee: Tennessee Valley Authority	1,600	1,600	1,600	1,600	1,600	1,600	9,600
Texas:							
Austin Electric Department						113	113
Brazos Electric Power Cooperative		25	25	25	25	25	125
Central Power & Light						179	179
Dallas Power & Light		120	120	120	120	120	600
Gulf States Utilities				432	432	432	1,296
Houston Lighting & Power						218	218
Sam Rayburn G. & T				19	19	19	57
San Antonio Public Service Board						199	199
Texas Electric Service Co		234	234	234	234	234	1,170
Texas Municipal Power Agency		40	40	40	40	40	200
Texas Power & Light		220	220	220	220	220	1,100
Tex-La Electric Cooperative		14	14	14	14	14	70
Vermont:							
Burlington Electric Department				1	1	1	3
Central Vermont Public Service	78	78	78	78	78	78	468
Green Mountain Power	29	29	29	29	29	29	174
Lyndonville Electric Department				(2)	(2)	(2)	1
Vermont Electric Cooperative		3	3	3	3	3	15
Vermont Electric G. & T				2	2	2	6
Vermont Public Power Supply				3	3	3	9
Washington Electric Cooperative				1	1	1	3
Virginia: Virginia Electric Power Co	1,219	1,219	1,219	1,219	1,219	1,219	7,314
Washington:							
Puget Sound Power & Light					18	18	36
Washington Public Power Supply System		919	919	919	919	919	4,595
Washington Water Power Co					18	18	36
Wisconsin:							
Dairyland Power Co	14	14	14	14	14	14	84
Madison Gas & Electric	27	27	27	27	27	27	162
Wisconsin Electric Power Co	282	282	282	282	282	282	1,692
Wisconsin Power & Light	62	62	62	62	62	62	372
Wisconsin Public Service Co	63	63	63	63	63	63	378
Total	26,469	29,961	29,961	30,752	31,512	32,221	180,876

[1] Utilities are listed according to the state in which the company maintains its headquarters.
[2] Less than $500.

VII. Supplemental Views

Supplemental Views of Senator Stafford

I oppose the committee's decision to report S. 1606 to the Senate without a recommendation on whether the bill should pass. Reluctantly, I did support a proposal by Senator Gorton that the bill be reported with a negative recommendation.

It is this Senator's belief that the public would have been far better served by an early congressional decision to give S. 1606 a decent and quick burial.

Any decision, such as the committee's decision to report the bill without recommendation, thus keeping the illusion that a Federal bailout remains possible, represents the worst possible approach to resolve this difficult and complex national problem.

We owe an early resolution to all parties—to the Nation, to the nuclear power industry, and certainly to the people who live in the vicinity of the Three Mile Island nuclear power facility. In effect, the committee's decision threatens to leave the Three Mile Island cleanup effort in a coma for years to come.

There is simply no demonstrated need for Federal intrusion into a financial problem of a private utility company, particularly as the Department of Energy has already agreed to pick up $125 million of the cost. There is no legitimate basis for requiring other utilities around the Nation, and their customers, to pick up the costs created by the mistakes of the operators of Three Mile Island.

Put another way, I see no reason why ratepayers in Alabama or Illinois or Oregon should be required to pay higher electric rates so ratepayers in Pennsylvania or New Jersey can pay less. This is particularly so because if the full cost of the cleanup were passed through to local customers, rates would rise from 6/10 of 1 percent to 2.3 percent.

It must be noted that groups such as the American Public Power Association and the Tennessee Valley Authority strongly oppose the bill.

But, aside from the dubious merits of the legislation, let us examine our responsibilities from a practical standpoint. No member of the Committee on Environment and Public Works spoke to this bill in a favorable light. The lack of enthusiasm was deafening. The debate centered on the degree of dislike individual members had for the bill. The sentiment in the Senate appears equally tepid. So it is quite likely that this bill may never receive the necessary time for debate in the Senate.

But, even if it does—and even if the bill manages somehow to win Senate passage—the House of Representatives will not act this year on this bill. That is very clear. The effect, therefore, is to

delay a resolution of this issue at least until next year, and probably 1984.

And, while we dangle the carrot of federally sponsored solution, other interested parties—the owners, the State regulators, and the Nuclear Regulatory Commission—appear certain to avoid any aggressive action to assume a greater share of the responsibility for cleaning up the Three Mile Island facility.

By providing the supporters of S. 1606 with a "middle-ground" vehicle with which to continue their efforts, we have simply assured more delay in the necessary cleanup.

Thus, S. 1606 aggravates the problem, not solves it.

It would have been far more responsible for the Committee on Environment and Public Works to have sent a clear signal to all parties that a solution must be found outside the Federal Government.

At the same time, it is my view that Congress has a responsibility to spur the Nuclear Regulatory Commission and the operators of Three Mile Island facility to act with urgency to deal with the obvious safety and health issues related to Three Mile Island.

If S. 1606 is not considered by the Senate, I would hope that such a failure will be interpreted as placing this bad concept to rest, once and for all.

Let us get on with the cleanup of Three Mile Island, not hold out unwise and false hopes.

ROBERT T. STAFFORD.

Supplemental Views of Senator Baker

I wish to commend the distinguished Chairman of the Committee, Mr. Stafford, for his patience and diligence at this legislation, S. 1606, has moved to final action by the Committee. He labored to see that the full Committee would discharge its responsibility, even when it was evident in the course of the debate that there could not be agreement on every element of the bill. He has guided the debate, even when there was at times great uncertainty over what Committee action would be appropriate for disposition of the bill. I am sure all of my colleagues on the Committee share my appreciation for the characteristically conscientious manner in which the distinguished Senator from Vermont has discharged the responsibilities of the Chair.

Both the Committee on Energy and Natural Resources and the Committee on Environment and Public Works have given exhaustive consideration to S. 1606 over many months. The bill has aroused much controversy based on deeply held views of the appropriate role of Federal and local governments, and the balance of public and private, national and State responsibility in assuring funds for the cleanup at Three Mile Island.

The Senate has now taken the first step in leading the way to a resolution of the uncertainty surrounding the funding of the Three Mile Island cleanup. This bill would put into place another key element of the cost-sharing proposal advanced by Pennsylvania Governor Richard Thornburgh last year. It would raise some $170 million from the utilities, and in the process would move the Governor's funding plan one step near completion.

While the utility community recognizes the penalty which the current uncertainty imposes on the industry, even among the utilities there is disagreement as to the appropriate response. The Tennessee Valley Authority, the American Public Power Association, and others have expressed vocal opposition to this bill. TVA is faced with a potential $1.6 million annual levy for six years, a total of $9.6 million. TVA, like other public utilities, has no shareholders to absorb that cost and is unwilling to impose any further rate increases on its customers. TVA, and other utilities around the country, have had their own financial crises, and have dealt with them alone without seeking external redress, without recourse to a national solution. I can well understand the position of my colleagues on the committee who characterize this bill as a Federal "bail-out" of a utility whose management they feel is ultimately to blame for this dilemma.

At the same time, I am largely in agreement with the assessment of the distinguished Chairman of the Subcommittee on Nuclear Regulation, Mr. Simpson, in his evaluation of the facts and his sense of the urgency surrounding this matter. The bill addresses an issue which is rightly of national concern. It is over three years, as

we are all so painfully aware, since the accident at Three Mile Island. The continuing problem is unprecedented both in its nature and in its impact. The state of the reactor is of deep and continuing concern. We have heard varying testimony on the extent and imminence of the health and safety risks the contaminated reactor poses for the workers and surrounding community. But no one can be sanguine about its condition. The reactor lies seriously damaged, and the central region of the core was described recently as "a bed of rubble." Whatever one's opinion of the present risks of such a situation, or who is responsible, there can be no doubt that timely decontamination should be the goal. I am confident that when the full Senate has an opportunity to debate this legislation, whatever the final outcome, the decision will go far to resolve the current impasse and expedite action on funding the TMI cleanup program.

HOWARD BAKER.

SUPPLEMENTAL VIEWS OF SENATOR SIMPSON

I welcome this opportunity to amplify my position on S. 1606, the Electric Utility Nuclear Accident Cost Allocation Act.

This bill has been the subject of a good deal of attention and controversy from the day it was first introduced on September 10, 1981. Two hearings have been held, one a joint hearing before the Committees on Environment and Public Works and Energy and Natural Resources on October 20, 1981, and the other a hearing before the Environment and Public Works Committee on May 20, 1982. Testimony was taken from numerous witnesses on virtually every imaginable aspect of the Three Mile Island (TMI) Unit No. 2 cleanup. Between the two Committees we now have a legislative record that, in my judgment, makes a compelling case for a favorable consideration of this legislation by the full Senate.

For more than three years now, the TMI-2 reactor has remained in virtually the same condition it was in shortly following the accident. Despite millions of words spoken, expert analyses and reports written, and hearings held and testimony taken, no significant progress has been made to date towards decontaminating the reactor and removing the damaged reactor core.

I have emphasized throughout that the problem confronting us is not, at this stage, a technical one. General Public Utilities, the owner of the plant, has established a comprehensive program for decontamination of the reactor which sets forth a detailed schedule for completion of individual tasks. The early successes in implementing this problem, including decontamination of the accident water in the auxiliary and containment buildings, have been noteworthy.

But it now appears that continued progress in cleaning up the remainder of the reactor—including the critical step of examining and removing the highly-radioactive core—may be slowed by the lack of adequate funding, thereby posing a potentially significant risk to the public health and safety and the environment.

As I indicated last October, equitable distribution of the cost of cleanup has proven to be the most difficult issue to resolve. Thus, when Governor Thornburgh unveiled his cost-sharing plan last summer, I commended him for his efforts and offered my support for what remains today as the only comprehensive approach to funding the balance of the cleanup cost yet to be put forward. While I expressed my preference at that time for a private solution to the financial problem, I felt then just as I do now, that the principal concern of all should be to ensure a prompt cleanup of TMI-2.

Indeed, the Thornburgh cost-sharing approach enjoys wide support among those who are called upon to share in the cost of cleanup. The Administration acted promptly to offer its support, by agreeing to commit approximately $123 million for completion of certain carefully identified research and development tasks. The

State of Pennsylvania has now come forward with a commitment of funds, a similar request is pending in the State of New Jersey, and the Pennsylvania Public Utilities Commission and the New Jersey Board of Public Utilities have both responded by approving rate increases. Congress is now being asked to endorse the final segment of this cost-sharing approach—the contribution of the nuclear utility industry—by setting its seal on a commitment, widely supported by this group, to participate in the cleanup of TMI-2.

Finally, I wish to recognize the efforts of my able colleagues Senator John Heinz (Pennsylvania) and Senator Bill Bradley (New Jersey), who have worked diligently and presented this matter in a highly articulate manner that should command our attention.

I support it, and will continue to support, the comprehensive cost-sharing approach advanced by Governor Thornburgh since I firmly believe that this approach represents the only equitable comprehensive solution to a problem that has been with us far too long; one that, as time goes by, threatens only to increase in magnitude. No other solution has been offered which will ensure a prompt, thorough response to the cleanup problems now confronting us at TMI-2. The simple fact of the matter is that the Thornburgh program is the only game in town. Accordingly, I support favorable Senate action on S. 1606, one of the last remaining elements to be put into place—one that is critical to the success of the Thornburgh plan.

ALAN K. SIMPSON.

Senators Abdnor, Murkowski, and Symms concur in the views expressed by Senator Simpson.

JAMES ABDNOR.
FRANK H. MURKOWSKI.
STEVE SYMMS.

SUPPLEMENTAL VIEWS OF SENATOR HART

I have long felt that the Congress, as a whole, must decide, firmly and unequivocally, who should bear the responsibility for cleaning up the Three Mile Island Unit 2 nuclear power plant. Although no one regrets more than I that this accident occurred, or more understands the trauma the residents of the area have suffered, the responsibility for the cleanup lies with the utility, the ratepayers and, to the extent they will contribute voluntarily, the nuclear industry (both utilities and reactor manufacturers).

I voted against reporting this bill with a negative recommendation, and in favor of reporting it without recommendation, to ensure the full Senate will consider it this session. I believe the sponsors should have the opportunity to make their case to the full Senate. Only when the Senate, and the Congress, send a clear signal that the Federal Government will not, in effect, tax ratepayers around the country to pay for nuclear accidents will the General Public Utilities Corp., the utility commissioners of Pennsylvania and New Jersey and the nuclear industry take the steps necessary for the cleanup to proceed as quickly as possible.

By reporting the bill without recommendation, the Committee virtually guarantees that the full Senate will soon send that signal. I will oppose the bill when it comes before the Senate and I associate myself with the arguments against the bill in the additional views of Senators Gorton and Mitchell.

GARY HART.

VIII. Minority Views

Minority Views of Senators Gorton, Mitchell, Stafford, and Baucus

The Committee on Environment and Public Works' reporting of S. 1606, the Nuclear Property Insurance Act of 1981, should be recognized as a unique event. The action which the Committee took was to report the bill to the Senate "without recommendation" that the bill do pass or not pass. This action was supported by a majority of the members on the Committee, only one of whom advocated that the bill be reported with a recommendation that the bill do pass. A substitute amendment, that the bill be reported to the Senate with a recommendation that the bill not pass, failed by a thin margin, 7-9. Several members, including the Chairman, stated their opinion that the bill should not be reported from the Committee at all.

Several members of the Committee, including our former Chairman, Senator Randolph, observed during the markup that the Committee on Environment and Public Works had never reported to the Senate a bill with a negative or no recommendation. "This is a unique situation," Senator Randolph said.

In considering the merits of this bill, members should not, therefore, take the action of the Environment and Public Works Committee as an endorsement of the bill's provisions.

As previously discussed, a substitute amendment, that the bill be reported to the Senate with a recommendation that the bill do not pass, failed on a rollcall vote, 7-9. We (Senators Mitchell and Gorton) proposed that action because we believe that the Committee should act on the merits of the bill. For the Environment and Public Works Committee simply to report the matter out without recommendation would mean that we had essentially wasted our time in having a hearing and attempting to make a determination about what should happen to this bill. We took jurisdiction. We had a hearing. We should have made up our minds on whether or not the bill was a good idea.

There are a number of alternative courses of action which the bill could have proposed. It did not propose to create some kind of tax or surcharge on all nuclear power to create an insurance pool for future accidents. In fact, that might be the only way that we could ever reduce the risk premium. Working backwards to something that has already happened, as S. 1606 did propose, is not going to lower a risk premium for future nuclear power plants' bonds.

It also did not propose to require Federal taxpayers as a whole to come up with $170 million because of the nature and scope of the

disaster which took place at TMI-2 in Pennsylvania. Had it done so, some attitudes might have been different.

But we had neither of those. We has a proposal that other utilities, who use nuclear power, pay a significant share to believe the ratepayers of GPU. GPU ratepayers would not, even if they were required to pay the entire cost of clean-up, pay rates as high as those of many utilities that would be required by the bill to make a contribution to the trust fund.

Utility ratepayers in Washington and Oregon are now subject to tremendous increases in utility costs which dwarf the amount involved in this bill. The dollar amount is over 10 times as great, and it is attributable to a nuclear disaster, admittedly a management disaster and a regulatory disaster, which has caused the construction of two very expensive nuclear power plans to be abandoned. There is no possible way of justifying to the citizens of those two States the proposition that they should not only pay for the mistakes of their own public utility districts and privately owned companies, but should pay also for the mistakes of a company in Pennsylvania simply because they chose to get into the nuclear business.

S.1606 is, essentially, an unjust proposal. It is unjust to add this burden to those others who had no responsibility for the accident and who has no gain whatsoever from the operation of the TMI plant. That we should consider what to do in the future about future nuclear accidents is, we think, appropriate. That we should simply relieve a charge which would othewise be imposed on the ratepayers of a particular utility whose negligence contributed significantly to this cost does not have any valid public policy reasons to support it. In order to give all the Senate's members the opportunity to examine the merits of this bill on the Senate floor, it seemed appropriate to us that we should report it out. But we do not believe that the Committee should have ducked appraising its merits by reporting it out without a recommendation.

Precedent

S. 1606 establishes a clear and dangerous precedent for all future accidents at nuclear power plants across the country. Three Mile Island represents this nation's most costly and extensive nuclear accident; how that accident will be paid for will set a record for future accidents, and indeed for all future mishaps and difficulties encountered at nuclear power plants. If there are future nuclear accidents—and it is likely there will be future accidents—this accident, and the measures employed to finance its clean-up, will be the major precedent.

No utility in the country which has a nuclear plant in which in accident occurs in the futrue will be satisfied with anything less than this type of federal legislation. Those who say this bill mandates a minimal contribution from ratepayers are right. But they are absolutely wrong in suggesting that ths is the end of it. S. 1606 reprecents the beginning of a new process, not the end.

Safety

In opposing S. 1606, we did not dismiss or discount the safety issue presented by the contaminated TMI Unit-2 reactor. We agree

with NRC Chairman Palladino that "the clean-up of TMI-2 must be accelerated." We simply take issue with how part of that clean-up would be financed under S. 1606.

Chairman Palladino has repeatedly stated that there remains the potential for a slow degradation of containment integrity and equipment capability within the TMI-2 reactor. He has also testified that there is an increasing potential for an unexpected release of radioactive material; specifically, radiocative liquid material at the plant may breach existing barriers and escape into the nearby Susquehanna River. We support both the NRC's analysis of safety problems at the Three Mile Island reactor and a full and expenditious clean-up.

Nationalization of the expense

S. 1606 poses, for the first time, whether ratepayers who would derive power from a nuclear power plant, or the nation's nuclear power ratepayers, should carry the financial burden for loss in the event of an accident, shoutdown, or cancellation.

Three Mile Island was by no means the first nuclear accident, nor does it represent the only major dilemma encountered in the operation of a nuclear power plant. In March 1975, a serious fire broke out at the Brown's Ferry 3-plant facility in North Alabama. The utility, the Tennessee Valley Authority (TVA), paid an estimated $13.25 million in repair and modification costs for the facility. In the 17 months following the fire, while the plants were shut down, TVA paid out approximately $230 million in replacement power costs. These costs were borne by TVA and its customers alone.

In 1979, the Nuclear Regulatory Commission ordered the Maine Yankee plant in Wiscasset, Maine to shut down for safety reasons associated with earthquake threats. The shutdown cost Maine's electrical consumers $20 million, a cost which was borne solely by them.

And as recently as January 1982, construction of two Washington Public Power Supply System (WPPSS) plants in Washington State was cancelled with more than $2.25 billion in bonds outstanding, the repayment of which will be absorbed solely by the member utilities and their customers. The cost of the WPPSS plant cancellations exceeds the cost of the TMI clean-up by a factor of ten and sets a clear stage of what we can likely expect from future nuclear costs.

In each of the above examples, consumers who have or will benefit from the operation of these plants have or will pay for the complications which arose. S. 1606 runs counter to this tradition by requiring ratepayers nationwide to help pay to clean up the accident which occurred in Pennsylvania. We see no reason why the tradition of ratepayers paying their own bill—established by ratepayers in the Northeast, Northwest, and Southeast—should be altered just because the utility commissions of Pennsylvania and New Jersey have not seen fit to assess GPU ratepayers.

Rates

S. 1606 would provide for part of the TMI-2 clean-up by increasing the rates of customers nationwide. This raises three questions which should be addressed:

1. What GPU rate increases would occur if GPU ratepayers paid for the entire cost of cleanup?

2. What GPU rate increases would occur if GPU ratepayers paid that portion of the cost of cleanup charged to ratepayers nationally by S. 1606?

3. How would GPU rates, if they included the entire cost of clean-up compare with the rates of other utilities?

First, by what percentage would GPU rates increase if, hypothetically, ratepayers in the GPU service area were to bear the full cost of clean-up? The General Accounting Office (GAO) has repeatedly stated that a modest increase in GPU rates would be sufficient to pay for the entire clean-up. Specifically, GAO has calculated that a typical residential customer (using 500 Kwh/month) of the three GPU subsidiaries would face the following monthly rate increases if the entire cost of the clean-up were passed through GPU rates:

Companies	Increase	Increase (percent)
Jersey Central Power & Light Co.	$1.45	2
Metropolitan Edison Co.	4.10	10
Pennsylvania Electric Co.	1.40	4

The burden on GPU ratepayers of paying for the entire clean-up is not nearly as great as the proponents of S. 1606 would have us believe.

But paying for the full costs of the TMI-2 cleanup is not provided for in this legislation. S. 1606 would pay for only about 20 percent of the total costs, thereby providing less than $30 million a year towards the cleanup.

The second question to be asked then is, what GPU rate increases would occur if GPU ratepayers paid that amount of the cost of cleanup which would be provided by ratepayers nationally under S. 1606? GAO has estimated that if PAPUC and NJBPU approved an increase to cover that portion, it would likely increase GPU rates by the following amounts: Met Ed rates would increase by .20 cents per Kwh; Penelec rates by 0.7 cents per Kwh; and JCP&L rates by 0.7 cents per Kwh. At the current rate levels, this additional costs would increase rates for Met Ed, Penelec, and JCP&L residential consumers using 500 Kwh per month by 2.3 percent, 0.9 percent, and 0.6 percent, respectively.

Third, how would GPU rates compare with the rates paid by other consumers if they included the entire cost of clean-up? Although GPU rates have increased since the accident, they are still substantially lower than those paid by other ratepayers. The following table, which was prepared by the Union of Concerned Scientists using figures furnished by GPU, compares GPU rates (with

the entire clean-up cost included) with current rates of selected other utilities:

Utility	Rate Cents/Kwh
Pennsylvania Electirc	[1] 7.83
Texas-New Mexico Power (Texas)	7.90
El Paso Electric (New Mexico)	8.34
Public Service of New Mexico	8.52
Newport Electric	8.71
El Paso Electric (Texas)	8.85
Central Vermont Public Service Co.	8.89
Metropolitan Edison	[1] 9.25
Texas-New Mexico Power Co.	9.25
Jersey Central Power and Light	[1] 9.81
Public Service Company of Colorado	9.88
Central Hudson Gas and Electric	10.13
Rockland Electric	10.78
Long Island Lighting Company	11.01
Orange and Rockland Utilities	12.10
Consolidated Edison (NY)	13.17

[1] GPU subsidiary.

S. 1606 would effectively mandate contributions from ratepayers who, although they pay rates substantial higher than GPU rates, would be required to pay still higher rates to help pay for the clean-up.

One irony with respect to rate comparisons should be noted. A January 8, 1982 decision by the Pennsylvania PUC made further rate increases contingent upon the restart of the undamaged sister reactor, TMI-1. Due both to a court decision requiring that the NRC study the psychological stress impact of a TMI-1 restart, and the discovery of deficient steam generator tubes, it is likely that TMI-1 will not be restarted for another year, and possibly much longer. Given this fact, S. 1606 would require contributions toward the TMI-2 clean-up from ratepayers nationwide, while GPU ratepayers in Pennsylvania would be exempted by the Pennsylvania PUC decision. Requiring contributions from those who drew no direct benefit from the operation of the TMI plant, while exempting those who did, is both inequitable and irresponsible.

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IX. Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, it is reported that this bill does not amend or repeal any existing statute or part thereof.

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